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ABSTRACT

Three reports on the state's licensure of private institutions and reliance on non-governmental accreditation are presented. They include: (1) Recommendations for Revising the Private Postsecondary Education Act of 1977 (the Private Postsecondary Education enterprise, findings of the California Postsecondary Education Commission's two previous reports, and a policy framework for state oversight of private postsecondary education); (2) The State's Reliance on Non-Governmental Accreditation (findings and policy guidelines, impetus for the study, nature and limitations of accreditation, state reliance on accreditation, and state oversight and non-governmental accreditation); and (3) Protecting the Integrity of California Degrees: The Role of California's Postsecondary Education Act of 1977 in Educational Quality Control (findings, origins of today's law, importance of the law, and implementation of the law). Tables are included. Contains 68 references. (SM)

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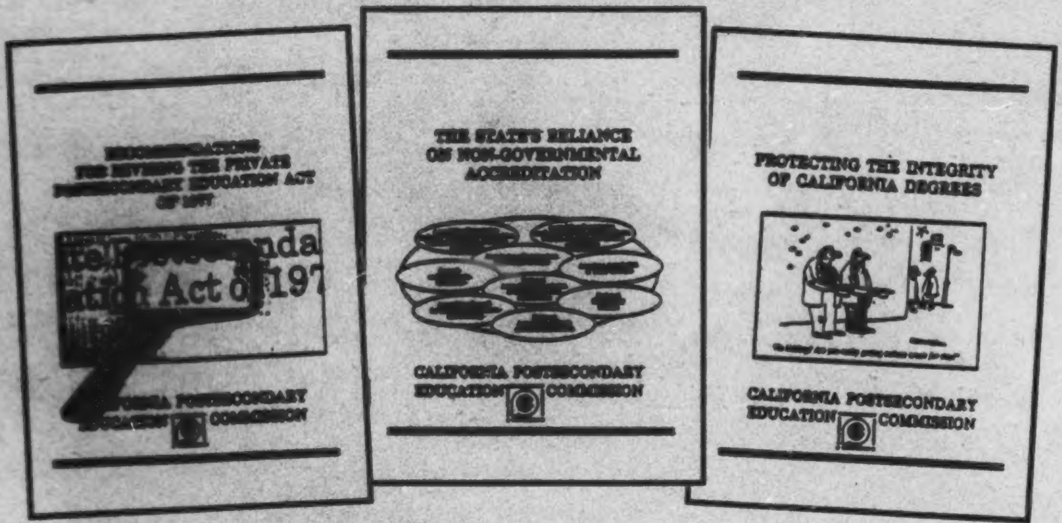
STATE OVERSIGHT OF POSTSECONDARY EDUCATION

THREE REPORTS ON CALIFORNIA'S LICENSURE OF PRIVATE INSTITUTIONS AND RELIANCE ON NON-GOVERNMENTAL ACCREDITATION



THE STATE'S RELIANCE ON NON-GOVERNMENTAL ACCREDITATION

CALIFORNIA POSTSECONDARY EDUCATION COMMISSION

PROTECTING THE INTEGRITY OF CALIFORNIA DEGREES

CALIFORNIA POSTSECONDARY EDUCATION COMMISSION

CALIFORNIA POSTSECONDARY
EDUCATION COMMISSION

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CALIFORNIA POSTSECONDARY EDUCATION COMMISSION

THE California Postsecondary Education Commission is a citizen board established in 1974 by the Legislature and Governor to coordinate the efforts of California's colleges and universities and to provide independent, non-partisan policy analysis and recommendations to the Governor and Legislature.

Members of the Commission

The Commission consists of 15 members. Nine represent the general public, with three each appointed for six-year terms by the Governor, the Senate Rules Committee, and the Speaker of the Assembly. The other six represent the major segments of postsecondary education in California.

As of April 1989, the Commissioners representing the general public are:

Mim Andelson, Los Angeles;
C. Thomas Dean, Long Beach;
Henry Der, San Francisco;
Seymour M. Farber, M.D., San Francisco;
Helen Z. Hansen, Long Beach;
Lowell J. Paige, El Macero; *Vice Chair;*
Cruz Reynoso, Los Angeles;
Sharon N. Skog, Palo Alto; *Chair;* and
Stephen P. Teale, M.D., Modesto.

Representatives of the segments are:

Yori Wada, San Francisco; appointed by the Regents of the University of California;

Theodore J. Saenger, San Francisco; appointed by the Trustees of the California State University;

John F. Parkhurst, Folsom; appointed by the Board of Governors of the California Community Colleges;

Harry Wugalter, Thousand Oaks; appointed by the Council for Private Postsecondary Educational Institutions ;

Francis Laufenberg, Orange; appointed by the California State Board of Education; and

James B. Jamieson, San Luis Obispo; appointed by the Governor from nominees proposed by California's independent colleges and universities.

Functions of the Commission

The Commission is charged by the Legislature and Governor to "assure the effective utilization of public postsecondary education resources, thereby eliminating waste and unnecessary duplication, and to promote diversity, innovation, and responsiveness to student and societal needs."

To this end, the Commission conducts independent reviews of matters affecting the 2,600 institutions of postsecondary education in California, including community colleges, four-year colleges, universities, and professional and occupational schools.

As an advisory planning and coordinating body, the Commission does not administer or govern any institutions, nor does it approve, authorize, or accredit any of them. Instead, it cooperates with other State agencies and non-governmental groups that perform these functions, while operating as an independent board with its own staff and its own specific duties of evaluation, coordination, and planning,

Operation of the Commission

The Commission holds regular meetings throughout the year at which it debates and takes action on staff studies and takes positions on proposed legislation affecting education beyond the high school in California. By law, the Commission's meetings are open to the public. Requests to speak at a meeting may be made by writing the Commission in advance or by submitting a request prior to the start of the meeting.

The Commission's day-to-day work is carried out by its staff in Sacramento, under the guidance of its executive director, Kenneth B. O'Brien, who is appointed by the Commission.

The Commission publishes and distributes without charge some 40 to 50 reports each year on major issues confronting California postsecondary education. Recent reports are listed on the back cover.

Further information about the Commission, its meetings, its staff, and its publications may be obtained from the Commission offices at 1020 Twelfth Street, Third Floor, Sacramento, CA 98514-3985; telephone (916) 445-7933.

STATE OVERSIGHT OF POSTSECONDARY EDUCATION

Three Reports on California's Licensure of Private Institutions and Reliance on Non-Governmental Accreditation

CALIFORNIA POSTSECONDARY EDUCATION COMMISSION
Third Floor • 1020 Twelfth Street • Sacramento, California 95814-3985

COMMISSION REPORT 89-21
PUBLISHED JUNE 1989

Reprinting Commission Report 89-13, published March 1989; and Commission Reports 89-17 and 89-18, published April 1989.

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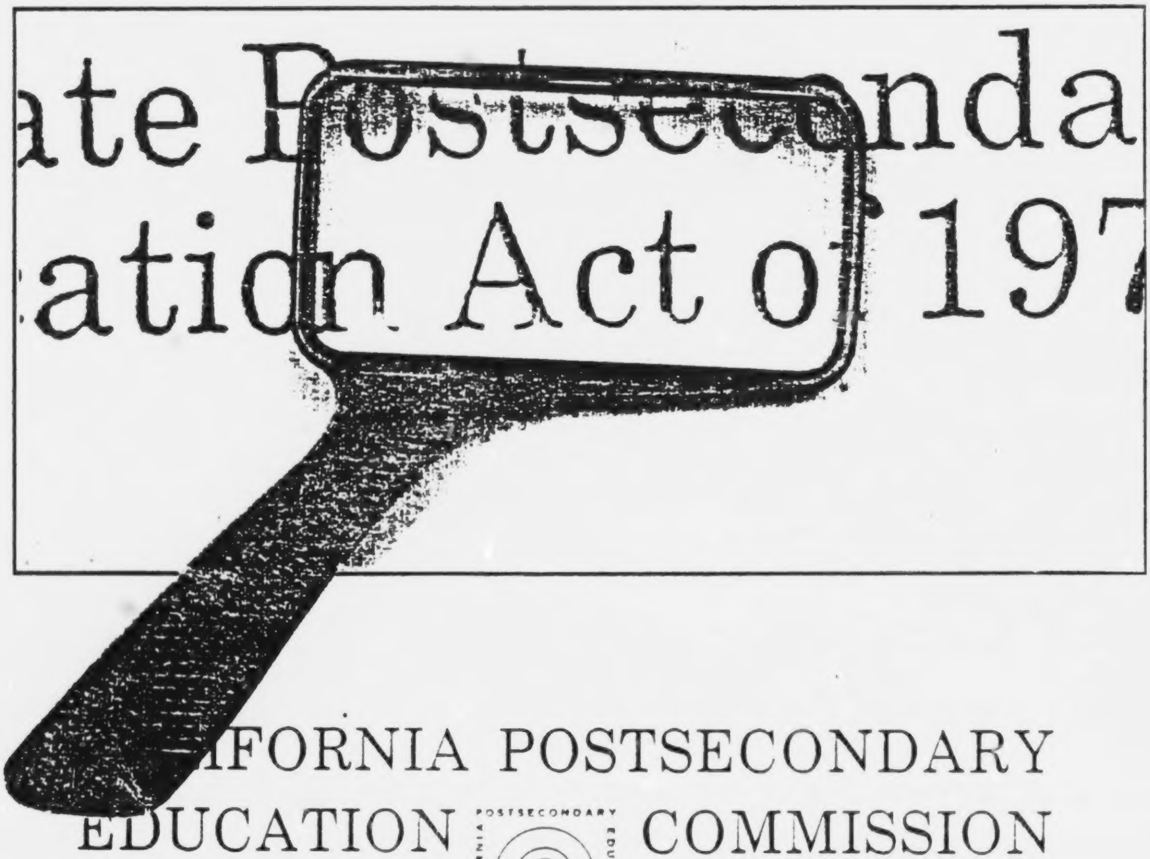
RECOMMENDATIONS FOR REVISING THE PRIVATE POSTSECONDARY EDUCATION ACT OF 1977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ation Act of 197

IFORNIA POSTSECONDARY
EDUCATION COMMISSION

Executive Summary

This report is the third in a series of related Commission reports on the subject of California State oversight of private postsecondary education. It offers a summary of the previous two reports -- *The State's Reliance on Non-Governmental Accreditation*, and *Protecting the Integrity of California Degrees* -- and concludes with a presentation of the goals that California should seek to accomplish in its oversight of private postsecondary education and recommendations about steps to accomplish these goals. It is organized into three parts as follows:

- Part One on pages 1-6 provides a brief description of California's private postsecondary educational enterprise and the licensure and oversight process used by the State for it.
- Part Two on pages 7-12 summarizes the major findings of the two earliuer reports and the fundamental conclusions to be drawn from them.
- Part Three on pagers 13-14 offers a policy framework for thinking about what the State should seek to accomplish through oversight of private postsecondary education and concludes with eight recommendations to the Governor and the Legislature about changes in the law to accomplish these goals, including abolition of the current Council for Private Postsecondary Educational Institutions and its replacement with a regulatory body to provide the leadership, planning, and oversight needed to maintain and develop a strong private sector of California's postsecondary education community.

The Commission adopted this report at its meeting on April 17, 1989, on recommendation of its Policy Evaluation Committee. Additional copies of the report may be obtained from the Library of the Commission at (916) 322-8031. Questions about the substance of the report may be directed to Jane V. Wellman, the associate director of the Commission, at (916) 322-8017.

RECOMMENDATIONS FOR REVISING THE PRIVATE POSTSECONDARY EDUCATION ACT OF 1977

A Report to the Legislature and Governor on Needed Improvements in State Oversight of Privately Supported Postsecondary Education

CALIFORNIA POSTSECONDARY EDUCATION COMMISSION
Third Floor • 1020 Twelfth Street • Sacramento, California 95814-3985

COMMISSION REPORT 89-18
PUBLISHED APRIL 1989

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1 *The Private Postsecondary Educational Enterprise*

THIS report is the last in a series of three related Commission reports on the subject of California State oversight of private postsecondary education.

The previous two reports -- *The State's Reliance on Non-Governmental Accreditation* (March 1989), and *Protecting the Integrity of California Degrees* (April 1989), -- were prepared in response to legislation that directed the Commission to review and comment on the State's oversight of private postsecondary education, both in its reliance on non-governmental accreditation and in the administration of the 1977 Private Postsecondary Education Act.

This third report builds on the findings of the previous two, offers summary conclusions from them, and concludes with a presentation of the goals that California should seek to accomplish in its oversight of private postsecondary education and recommendations about steps to accomplish these goals. It is organized into three parts as follows:

- This part provides a brief description of California's private postsecondary educational enterprise and the licensure and oversight process used by the State for it.
- Part Two summarizes the major findings of the two previous reports and the fundamental conclusions to be drawn from them.
- Part Three offers a policy framework for thinking about what the State should seek to accomplish through oversight of private postsecondary education and concludes with eight recommendations to the Governor and the Legislature about changes in the law to accomplish these goals.

The landscape of private postsecondary education

California's private postsecondary educational enterprise is a large, complex, and diverse part of postsecondary education. It is also substantially separate in governance, oversight, and State regulation from the rest of the postsecondary educational community, as it is the only component of postsecondary education to remain under the aegis of the State Superintendent of Public Instruction, whereas the other postsecondary education sectors have their own independent governing and regulatory boards.

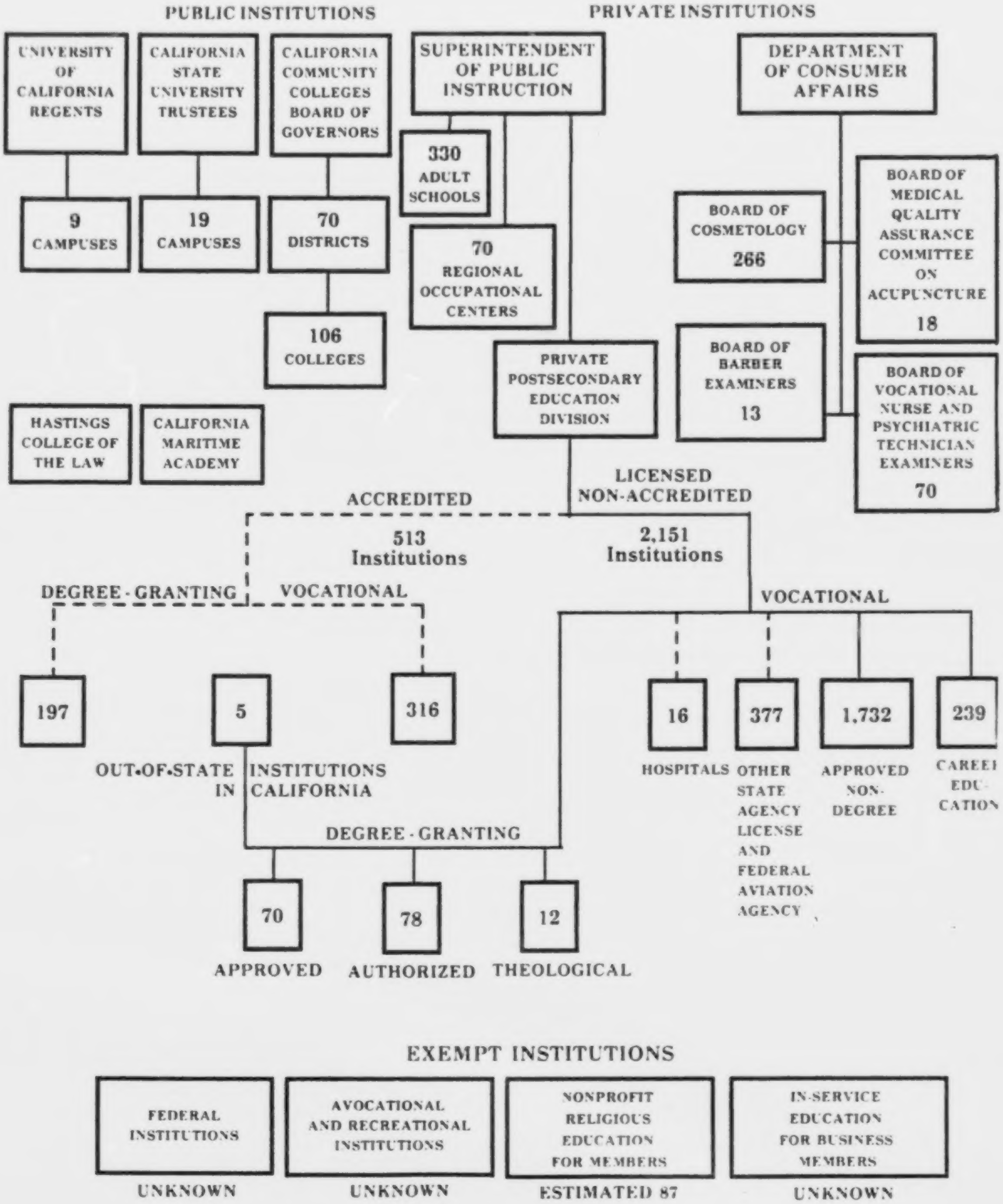
Size and scope

It is estimated that approximately 3,000 privately supported institutions of postsecondary education are currently operating in California. This number far exceeds that of publicly supported institutions (of which there are 536, including regional occupational centers and adult schools), although larger numbers of students are educated in public institutions. Public degree-granting institutions enroll over 1.5 million students alone -- the majority of them in community colleges. Data on enrollment in privately supported institutions is scattered and incomplete, since California requires only public institutions to report these facts annually; but nearly a million students probably attend private vocational schools, and a much smaller number attend degree-granting institutions. This means that the private postsecondary sector is second only in size to the community colleges.

Diversity of institutions

Within the private sector, there is an enormous diversity of types of institutions, degrees, and educational offerings, as well as of students served. The institutions range from regionally accredited degree-granting non-profit institutions such as those in the Association of Independent California Colleges and Universities (AICCU), and accredited non-degree granting vocational institutions that resemble the adult vocational education component of the community colleges, to the non-accredited sector with its extensive range of job-oriented certificate and diploma programs. Display 1 on page 2 depicts the organization of State oversight of private post-

DISPLAY 1 State Oversight of Postsecondary Education Institutions in California


PUBLIC INSTITUTIONS
PRIVATE INSTITUTIONS
UNIVERSITY OF CALIFORNIA REGENTS
CALIFORNIA STATE UNIVERSITY TRUSTEES
CALIFORNIA COMMUNITY COLLEGES BOARD OF GOVERNORS
SUPERINTENDENT OF PUBLIC INSTRUCTION
DEPARTMENT OF CONSUMER AFFAIRS
9 CAMPUSES
19 CAMPUSES
70 DISTRICTS
330 ADULT SCHOOLS
70 REGIONAL OCCUPATIONAL CENTERS
106 COLLEGES
BOARD OF COSMETOLOGY 266
BOARD OF MEDICAL QUALITY ASSURANCE COMMITTEE ON ACUPUNCTURE 18
BOARD OF BARBER EXAMINERS 13
BOARD OF VOCATIONAL NURSE AND PSYCHIATRIC TECHNICIAN EXAMINERS 70
PRIVATE POSTSECONDARY EDUCATION DIVISION
HASTINGS COLLEGE OF THE LAW
CALIFORNIA MARITIME ACADEMY
ACCREDITED
LICENSED NON-ACCREDITED
513 Institutions
2,151 Institutions
DEGREE-GRANTING
VOCATIONAL
VOCATIONAL
197
5
316
OUT-OF-STATE INSTITUTIONS IN CALIFORNIA
16
HOSPITALS
377
OTHER STATE AGENCY LICENSE AND FEDERAL AVIATION AGENCY
1,732
APPROVED NON-DEGREE
239
CAREE EDU- CATION
DEGREE-GRANTING
70
APPROVED
78
AUTHORIZED
12
THEOLOGICAL
EXEMPT INSTITUTIONS
FEDERAL INSTITUTIONS
UNKNOWN
AVOCATIONAL AND RECREATIONAL INSTITUTIONS
UNKNOWN
NONPROFIT RELIGIOUS EDUCATION FOR MEMBERS
ESTIMATED 87
IN-SERVICE EDUCATION FOR BUSINESS MEMBERS
UNKNOWN

Source: Adapted from California Postsecondary Education Commission, March 1989, p. 2.

secondary education and shows the configuration of institutional types that fall into each category. The following paragraphs attempt to explain what the terms in that display mean.

Different types of private postsecondary education institutions

The law governing private postsecondary education in California is complex and its provisions somewhat confusing -- both within the educational community and outside of it. Under the Private Postsecondary Education Act of 1977, all private institutions must be authorized or licensed to operate by the State unless they are specifically exempted from its provisions. (Both the terms *authorized* and *license* are used in the law, but *license* is not defined.) The State agency responsible for this authorization or licensure in most cases is the Private Postsecondary Education Division in the State Department of Education. Unlike some states that merely "register" institutions without ever evaluating them, California requires a review and continued oversight as a condition of authorization.

The different forms of review form the basis for six different categories of degree-granting institutions and four categories of vocational schools, as follows:

Degree-granting institutions

1. *Accredited in-state institutions:* California-based institutions that are accredited by agencies recognized by the U.S. Secretary of Education are accepted without further review or oversight if they file with the Private Postsecondary Education Division an annual affidavit certifying their accreditation.

2. *Out-of-state accredited institutions:* California does not rely on accreditation in lieu of State licensure review for accredited institutions that operate in the State but are headquartered out of state. For these institutions, the law requires that the Private Postsecondary Education Division conduct a licensure review that is based on standards employed by the nation's six regional accrediting associations.

3. *Approved institutions:* Under the law, non-accredited institutions can have either of two statuses -- *approved* or *authorized*. An institution that is *approved* by the State has to meet standards for curricula and student achievement that are "comparable" to accreditation. State "approval" is generally considered to be a step toward achieving nongovernmental accreditation and in fact is a requirement for institutions seeking accreditation by the Western Association of Schools and Colleges -- California's regional accrediting association -- but California does not require that an institution must evolve from approved to accredited status. The Superintendent of Public Instruction may award approval for a maximum of three years. Institutions that do not meet standards for full approval may receive candidate status for a period not to exceed two years, and they may renew this status only one time.

4. *Authorized colleges and universities:* Since 1984, colleges and universities that are *authorized* by the State must meet standards that include all of the following:

Institutional objectives;
Administrative methods;
Curriculum;
Instruction;
Faculty, including their qualifications;
Physical facilities;
Administrative personnel;
Procedures for keeping educational records;
Tuition, fee and refund schedules;
Admissions standards;
Scholastic and graduation requirements;
Degrees offered; and
Financial stability.

5. *Authorized schools of theology:* Prior to 1984, authorized institutions had to prove only that the documents they submitted for review were truthful and accurate, including a statement that they had assets of at least $50,000 available for the purposes of education. Today, only schools of theology may be authorized if they meet that standard and if

The Superintendent of Public Instruction grants authorization to colleges, universities, and schools of theology for five-year periods, and the law allows institutions to operate with "conditional" authorization for periods of between one and five years. If the Superintendent finds that an institution fails to meet a standard for authorization, he must put the institution on probation and identify what its defects are and what specific steps it needs to take to eliminate the problem. Institutions that fail to meet the conditions for removal of probation can have their authorization removed.

6. *Religiously exempt institutions:* Institutions may declare themselves to offer instruction exclusively in areas of religion and thus exempt themselves completely from State licensure upon application to do so.

Private vocational schools

The more than 1,800 private non-degree granting vocational institutions in California are licensed to operate under one of four different categories:

1. *Private teaching hospitals:* These hospitals are licensed to award diplomas under the provision of the Health and Safety Code, with the State Department of Education having no monitoring responsibilities for them.

2. *Licensed vocational schools:* Approximately 400 institutions are currently licensed and monitored by governmental agencies other than the State Department of Education. Selected private schools, such as cosmetology and barber colleges, are licensed by professional boards in the State Department of Consumer Affairs, while flight instruction schools are licensed by the Federal Aviation Administration.

3. *Accredited institutions:* Accreditation by national accrediting associations recognized by the U.S. Secretary of Education -- such as the National Association of Trade and Technical Schools (NATTS) and the Association of Independent Schools and Colleges (AISC) -- allows approximately 325 vocational schools to operate without State oversight and review except in the most extreme circumstances when, because of legislation enacted in 1988, the Private Postsecondary Education Division may investigate and, in certain circumstances, lift their license.

4. *Approved institutions:* Non-accredited vocational institutions are approved by the Private Postsecondary Education Division if the institutions comply with several minimum criteria, most of which are not related to the quality and content of the educational program. Provisional approval status may be granted for one year, and may not be extended beyond that year. If the Division does not act within 30 days of receipt of the institution's application, the institution receives provisional approval automatically.

The State's licensure and review process

When a degree-granting postsecondary institution wishes to operate in the State of California, it must determine the aegis under which it chooses to do so: whether it will seek accreditation from a recognized accrediting agency, be licensed to operate by the State, or claim a religious exemption. If it chooses to submit an application for State licensure, the application must show whether it is applying to be authorized or approved and be accompanied by a check covering the costs of the application process.

The State's review processes for approved and authorized degree-granting institutions is similar, although the standards used in the process differ as noted above. The process involves the Private Postsecondary Education Division sending a team to visit the applicant institution, examine it in light of those standards, and recommend whether or not it should be authorized or approved to grant degrees. The director of the Division then reviews the recommendation of the visiting team and, in the case of a unanimous recommendation for or against, submits the application to the Superintendent of Public Instruction for final authorization or approval. In case of a disagreement among the visiting team, the director forwards the materials to the Council for Private Postsecondary Educational Institutions -- an advisory body to the Superintenteam, the director forwards the materials to the Council for Private Postsecondary Educational Institutions -- an advisory body to the Superintendent -- for review and recommendation to the Superintendent.

Approved vocational schools are visited and reviewed by a representative of the Division, and if the Division does not take action on the application within 30 days of the visit, the school automatically receives a full approval. Specialized career-oriented institutions that fall under the jurisdiction of the Department of Consumer Affairs are reviewed for oversight by their respective boards: barber schools by the Board of Barber Examiners; schools of cosmetology by the Board of Cosmetology; schools of acupuncture by the Board of Medical Quality Assurance; and schools training vocational nurses and psychiatric technicians by the Board of Vocational Nurses and Psychiatric Technicians. In all of these instances, the standards and conditions for institutional review and oversight are set by these boards. Once they have certified that the institutions have been satisfactorily reviewed, institutional licenses to operate are issued by the Private Postsecondary Education Division.

Funding and organization of State review

The Private Postsecondary Education Division

The Veterans Administration of the federal government supplies funds to the states to review federally reimbursable education for members of the armed forces, veterans, and their dependents; and California has assigned this oversight task to two agencies -- the Department of Industrial Relations for apprenticeships, and the Private Postsecondary Education Division for training courses. The Division's process of reviewing these courses is essentially separate from its process of reviewing institutions for licensure, but the licensure process benefits from the Division's federal support because the State of California, unlike other states, puts no General Fund support into the oversight or licensure of private postsecondary education.

The Division is funded exclusively from its Veterans Administration contract and from fees collected from private institutions. In 1988-89, these sources combined to provide a total of $1.9 million in funding, of which over $1 million came from the federal government and $894,000 came from institutional fees. These federal and institutional funds pay for 33 authorized positions in the Division, which is organized as shown in Display 2 on page 6.

The Council for Private Postsecondary Educational Institutions

The Council for Private Postsecondary Educational Institutions was created in 1972 to provide "leadership and direction in the continuing development of private postsecondary education as an integral and effective element in the structure of postsecondary education in California." It has 15 voting members -- four of them appointed by the Superintendent of Public Instruction, five by the Senate Rules Committee and the Assembly Speaker -- plus the Superintendent or his designee. The Council also has three non-voting ex-officio members: the directors or their designees of three related State agencies -- the Departments of Consumer Affairs, Employment Development, and the Postsecondary Education Commission.

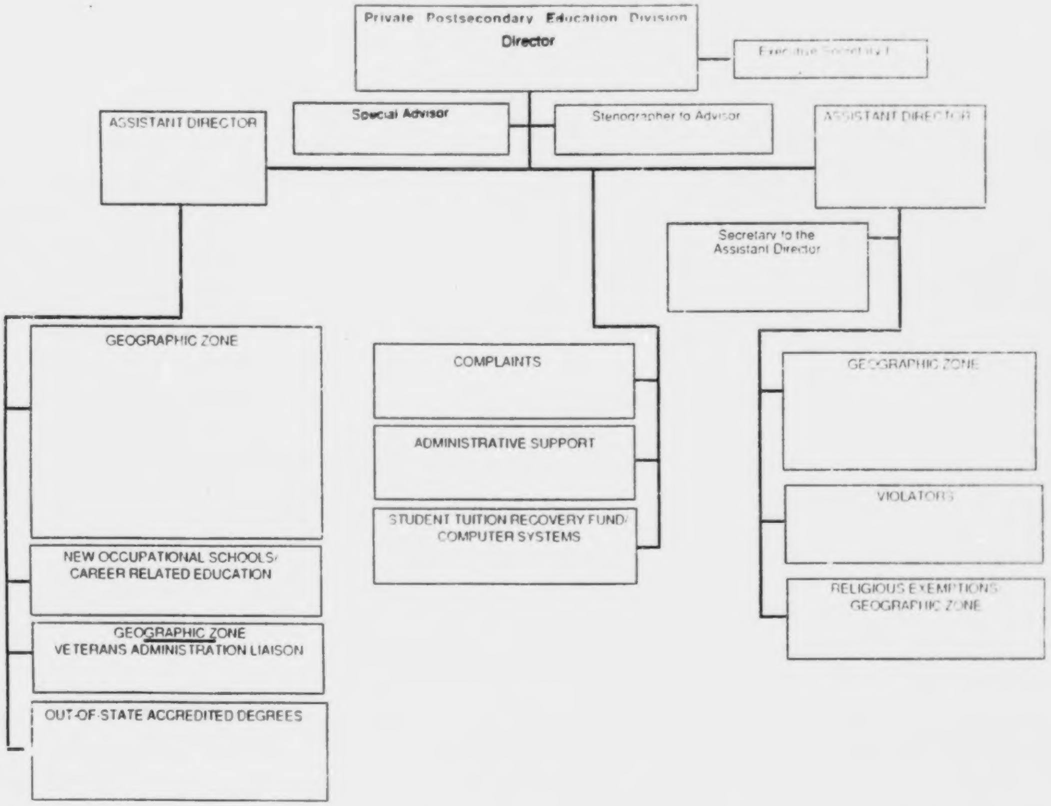
According to the Private Postsecondary Education Act, the Council's work "shall at all times be directed toward maintaining and continuing, to the maximum extent possible, private control and autonomy in the administration of private postsecondary schools and colleges in this State." The Council is advisory to the Superintendent in most matters and has statutory authority only over increases in institutional licensure fees.

Staff for the Council are provided by the Director of the Division from within the Division; but because of the Division's staffing shortages, the Council has not always had full-time staff made available to it.

Other State agencies

State agencies other than the Division and the Council are also involved in the process of oversight, review, and licensure of private postsecondary education. Outside of the Department of Consumer Affairs, which has oversight responsibility for many of the professions, general policy oversight is scattered among many agencies.

DISPLAY 2 Organization of the Private Postsecondary Education Division, July 1988


Private Postsecondary Education Division
Director
Executive Secretary I
Special Advisor
Stenographer to Advisor
ASSISTANT DIRECTOR
ASSISTANT DIRECTOR
Secretary to the Assistant Director
GEOGRAPHIC ZONE
NEW OCCUPATIONAL SCHOOLS/ CAREER RELATED EDUCATION
GEOGRAPHIC ZONE VETERANS ADMINISTRATION LIAISON
OUT-OF-STATE ACCREDITED DEGREES
COMPLAINTS
ADMINISTRATIVE SUPPORT
STUDENT TUITION RECOVERY FUND/ COMPUTER SYSTEMS
GEOGRAPHIC ZONE
VIOLATORS
RELIGIOUS EXEMPTIONS/ GEOGRAPHIC ZONE

Source: Adapted from California Postsecondary Education Commission, April 1989, p. 41.

Chief among these agencies is the Postsecondary Education Commission, which participates in the implementation of the law by being obligated to name one staff person to participate in each site visit to authorized institutions and which has statutory responsibility to review the effectiveness and implementation of the law.

The Student Aid Commission also becomes involved in these matters, as it has statutory responsibility for the State's management of all student aid programs, including the federal guaranteed student loan program as well as to notify the Division of any private institutions that are subject to its actions in limiting or suspending their eligibility under the Guaranteed Student Loan Program.

Finally, the Attorney General's Office is involved in two ways -- in complaint investigations and in the handling of licensure appeals.

2 *Findings of the Commission's Two Previous Reports*

IN RECENT months, the Commission has published two reports responding to legislative requests regarding California's oversight of private postsecondary education -- *The State's Reliance on Non-Governmental Accreditation* (March 1989) and *Protecting the Integrity of California Degrees* (April 1989).

California's reliance on accreditation

In the first report, the Commission reviewed the State of California's use of accreditation in lieu of direct State oversight as a condition of State authorization to offer instruction. It found that the State relies on accreditation to accomplish three basic purposes:

1. Maintain a standard of quality, probity and stability among accredited institutions that is at least equivalent to the State's oversight standards;
2. Determine eligibility for federal and State student aid in cooperation with the United States Department of Education; and
3. Provide a qualitative filter for individuals applying to take professional licensing examinations.

Nine different accrediting agencies review and accredit institutions in California and collectively accredit some 820 institutions (Display 3, below).

The accreditation process is essentially a process of peer evaluation, which the Commission has historically found to be deserving of State encouragement and support. However, while the State has in general been well served by its reliance on accreditation, total reliance on the process for purposes of institutional authorization weakens the capacity of the State to set and maintain minimum standards for accredited institutions. The reason is the considerable unevenness among the different accrediting associations in terms of their procedures for review, frequency of review, definition of standards, requirements regarding financial information, and minimum definitions of educational quality. Although the rigor and extent of most accrediting reviews seems perfectly adequate, this is not always the case; and the current law makes no allowance for selective judgments by the State of when the accrediting process meets minimum State standards

DISPLAY 3 *Institutional Accrediting Agencies Operating in California and Number of California's Private Institutions Accredited by Them*

Accrediting Agency	Degree Granting	Non-Degree Granting
Accrediting Commission for Senior Colleges and Universities, WASC	102	0
Accrediting Commission for Community and Junior Colleges, WASC	23	0
American Association of Bible Colleges (AABC)	6	0
Accrediting Council for Continuing Education and Training (ACCET)	0	160
Association of Independent Schools and Colleges (AICS)	12	45
Council on Chiropractic Education (CCE)	5	0
National Accrediting Commission of Cosmetology Arts and Sciences (NACCAS)	0	230
National Association of Trade and Technical Schools (NATTS)	20	203
National Home Study Council (NHSC)	2	12

Source: Adapted from Display 10, California Postsecondary Education Commission, March 1989, p. 27.

or when some additional review would be appropriate.

For example, three of the nine accrediting agencies operating in California do not require that institutions supply audited financial statements for review prior to initial accreditation. This is of particular concern to the State because such reviews give some systematic insight into the financial stability of these institutions. Since accredited institutions are eligible to participate in State and federal student aid programs, their financial stability is important to government student aid officials.

Considerable variation also exists among accrediting agencies in the definition of what they require for a degree and in whether they expect institutions to meet State standards for authorization or licensure. In addition, the State has no mechanism for collecting statistical information from accredited institutions (for example, on programs and courses offered, student enrollments, and degrees awarded) to assist in State planning. This impedes the ability of State policy makers to know what students are being served by these institutions, at what cost, and with what results.

Thus the Commission concluded that the State had to some extent relinquished its responsibility for oversight to the accreditation process, and that some reversing of this policy was in order. In the report, it provided two guidelines for State policy with regard to how to accomplish this:

1. In the oversight of private postsecondary institutions in California, the State should retain the responsibility for ensuring compliance with its minimum quality standards and consumer protection laws.
2. The State should rely on individual accrediting agencies for purposes of protecting the consumer and maintaining the integrity of degrees and other awards on a case-by-case basis as determined by the appropriate State agency. Such reliance should be found appropriate only when an accrediting agency can demonstrate that its standards and procedures substantially cover the standards and consumer protection requirements in the State's licensing laws and these are rigorously enforced. This decision to rely on an accrediting agency for this purpose should be subject to periodic evaluation by a responsible agency of the State (1989a, p. 4).

Protecting the integrity of California degrees

The second Commission report focused on the effectiveness of California's current law regulating private colleges and universities -- the Private Postsecondary Education Act of 1977, as amended -- in protecting the integrity of their degrees. This law sunsets on January 1, 1992, and the Legislature directed the Commission to review its adequacy and its implementation in anticipation of that sunset.

In that report, the Commission provided a detailed chronicle of the origins of the law, including amendments made over the past five years that were designed to strengthen State oversight of private postsecondary education by (1) requiring that all previously authorized institutions be re-reviewed to ensure their compliance with new educational standards, (2) including language implying that "approval" is comparable to accreditation, and (3) revising the State's review process for out-of-state accredited institutions. The Commission found that these recent changes in the law have improved State oversight considerably. In 1984, there were 209 unaccredited but State-authorized institutions operating in California; but by the end of 1987 this number had dropped to 90. Although it is not possible to know definitively what happened to the remaining 119 because data on them are so limited, it appears that at least 48 of them either closed or moved out of State because of the strengthened law. Of these, 15 were denied reauthorization. The rest either did not apply for reauthorization because of the stricter standards, withdrew their applications during the reauthorization process, moved to "approved" status, or filed as authorized schools of theology.

Despite this improvement in authorization standards, two weaknesses remain that have prevented the law from accomplishing its goal of protecting the integrity of California's degrees and diplomas: (1) remaining inadequacies in the law itself, and (2) failures in its implementation.

Deficiencies in the law

Four defects in the law are of particular concern:

1. The different categories or layers of institutional status in the law are confusing to educators and the public alike. Its distinction between "approval" and "authorization" is particularly obtuse; its combination of two entirely different forms of recognition -- one for colleges and universities and the other for theological schools -- under the single label of "authorization" is misleading; and the meaning of "licensure" in relation to approval and authorization is murky. For both approved and authorized institutions, no clear distinction exists between their minimum educational standards that can separate them unequivocally. The category of "religiously exempt" institutions permits self-proclaimed religious institutions to award degrees unless the State challenges them in the courts. And no category exists for new institutions to begin operation under "candidate" or "provisional" status.

2. A second problem with the law is the way it is funded. No State resources at all are committed to the oversight, licensure, and policy review of private postsecondary education. To enforce the law, the Private Postsecondary Education Division of the State Department of Education must rely exclusively on fees from the application and renewal process for approved and authorized institutions, supplemented with federal funds for its course approval activities on behalf of the Veterans Administration. While some problems in implementing the law are not causally linked to inadequate resources, there can be no doubt that additional staff resources to do the job would be of considerable help.

3. The law contains a structural problem restricting the oversight and regulation of private postsecondary education by confining its community of interest to those individuals affiliated with private institutions -- and for the most part, proprietary or profit-making ones. The sole exception to this policy has been the involvement of the regionally accredited, degree-granting nonprofit sector in State policy and planning for postsecondary education. This isolation of the rest of the "industry" -- as it has labeled itself -- has been exacerbated by the location of the Private Postsecondary Education Division within the Department of Education, away from postsecondary educational peers. The Council for Private Postsecondary Education, already weakened because it is a policy rather than a regulatory body, is also structured to maintain the isolation from the rest of postsecondary education. Issues such as improving the definition and application of quality standards, getting qualified individuals on review teams, and ultimately improving the articulation of the entire sector into all aspects of postsecondary education will not be solved if this isolation is maintained

4. The law has inadequate enforcement provisions whereby institutions that have failed to meet its standards may continue to operate almost indefinitely while they appeal.

Problems in implementing the law

1. The Private Postsecondary Education Division has been unable to implement the provisions of the law effectively and on time, as evidenced by the fact that the regulations have yet to be adopted implementing the 1984 amendments to strengthen the authorization process for non-accredited institutions and the licensure process for out-of-state accredited institutions. Its focus on the in-state authorization and approval process has also meant delays in implementing the new standards for licensing out-of-state accredited institutions.

2. The standards for authorization and approval have been applied unevenly by individual staff of the Division, caused in part because of inadequate staff training and also by very high workload requirements attributable to inadequate funding for staff resources. The size of the Division's staff is probably too small to do the job well under any circumstance, but this problem has been exacerbated by the fact that most staff do not have background or adequate training in the field of postsecondary management or quality control.

3. Because of its reliance on institutional fees, the Division has faced problems in regulating institutions while simultaneously providing techni-

cal assistance to them. Implementation of the 1984 amendments has forced the staff to spend a great deal of time on the process of re-authorizing institutions, and because of the newness of the law and the lack of regulations, much of this time has been spent in helping institutions get through the application process. Questions exist as to whether it is appropriate for the same staff who are providing this consultation to also be in the position of reviewing and making judgments about the quality of these institutions' applications.

4. The Division lacks time or staff to collate statistical information from institutions into adequate trend reports on their number, type, and size; their enrollments and graduates by program area; and their instructional and administrative staff. As a result, State policy makers lack information about the private postsecondary enterprise with which to draw definitive conclusions and make informed planning and policy judgments affecting it.

3. Finally, the Council for Private Postsecondary Educational Institutions has had a mixed history of helping implement the law. First created as a policy body in 1972, the Council has evolved from initially being a promoter of the private postsecondary educational industry to having a majority of members interested in strengthening its regulation. Whether the same body can simultaneously promote and regulate any business or industry remains an open question, but the chief dilemma of the Council seems to be that -- regardless of its direction or focus -- it remains merely advisory to the Superintendent of Public Instruction. The only area where it has decision-making responsibility is in the area of approving licensure fees. In 1986, it disapproved the Division's request to increase fees in order to hire more staff, although it has recently approved a fee increase to hire one half-time attorney to help reduce the legal backlog of the Division. Overall, the work of the Division has not been helped by the Council, which has not participated as it could have in the larger postsecondary educational community with respect to policy, planning, and oversight.

Conclusions

In its two previous reports, the Commission has found evidence of a rich variety of private postsecondary educational institutions in California. With the demands that exist among the population of so large a state for all kinds of postsecondary education, the legitimate educational needs of Californians will never be able to be met through the public sector alone. Some components of the private sector have missions similar to those of public institutions, but the majority of them offer programs that differ in intended scope and depth from those available in the public sector. As the State moves to the year 2000, the enrollment demands that will be put on the entire postsecondary educational apparatus will be such that all of the resources available -- public and private -- will have to be efficiently and effectively utilized.

The private sector also provides an avenue for institutional and curriculum innovation that enriches the educational opportunities of California's students. Although the Private Postsecondary Education Act has succeeded in encouraging innovation and experimentation through private postsecondary education, it is not clear that it has achieved its goal of protecting the quality of education offered to students throughout the private sector. The institutions that maintain the highest standards of educational quality appear to be those that are regionally accredited and largely non-profit. The State can lay no claim for responsibility for the quality of these institutions, since their standards are developed and enforced through a non-governmental peer process rather than through State regulation or oversight. It is less clear that all of the institutions that are licensed by the State meet reasonable standards of quality. Some non-accredited degree-granting institutions remain a particular concern to the State, and problems exist among some accredited vocational schools -- raising questions about the wisdom of the State's total reliance on accreditation in lieu of direct review and regulation.

This excessive reliance on accreditation can be solved by giving the State the ability to be selective in when to rely on accreditation. But more extensive change will be needed to overcome the inadequacies of the law and its implementation in protecting the quality of California education. These inadequacies have perpetuated California's reputation as being a haven for low-quality private institutions, despite recent improvements in the law and despite the number of excellent private institutions operating in the State.

This issue of reputation involves both fact and perception. The factual problems are evidenced by the number of school closures, high student loan default rates, inadequate or nonexistent student counseling, poor job placement records, the inability of students to get courses accepted for credit outside of the institutions, and completely inadequate institutional record keeping. For degree-granting institutions, an additional issue is the acceptance by the State of degrees from unqualified institutions as a condition of licensure, thus exposing the public to ill-prepared professionals.

The problems of perception are equally as bad, given the widespread and persistent sense that neither State regulation nor the peer review process of some accrediting agencies protects quality among all privately supported institutions. So long as these negative perceptions persist -- regardless of their fundamental accuracy -- it is the students and the quality institutions serving them who will be shortchanged.

3

A Policy Framework for State Oversight of Private Postsecondary Education

MUCH has been accomplished by the State of California in the past five years to improve its oversight of private postsecondary education. Much more remains to be done, however. In this final section of the report, the Commission offers five State policy goals and eight recommendations to the Legislature as a framework for improving State oversight of private postsecondary education.

State policy goals

The following policy goals emanate from the findings and conclusions of the Commission's recent reports on State oversight of private institutions and form the basis for its subsequent recommendations on changes in the Private Postsecondary Education Act.

1. State law should be as simply written and clear as possible, both to aid in its enforcement and for the benefit of students, employers, and the public.

2. State law should be clear about the purpose of State oversight of private postsecondary education. The major goal of oversight should be to ensure minimum standards of instructional quality and institutional stability for all students in all types of institutions. A secondary goal should be to ensure integration of the private postsecondary educational community into all aspects of State policy and planning for postsecondary education.

3. State law should be clear about the meaning of licensure. A license should mean that the State has determined and certifies that an institution meets at least minimum standards of integrity, financial stability, and educational quality -- including the offering of bona fide instruction by qualified faculty and the appropriate assessment of students' achievement prior to, during, and at the end of their program.

4. The law should recognize and support non-governmental accreditation, while not ceding to that or any other non-governmental process all responsibility for State oversight for purposes of licensure if the accreditation process fails to protect minimum standards of quality. As a result, California should not seek to obtain recognition by the United States Secretary of Education of its State licensure process as comparable to accreditation.

5. The law should be administered by individuals who are part of the postsecondary educational community, supported by and building on a peer review process that integrates experience and perspective from public as well as private postsecondary education.

Recommendations

Because of the complexity of the problems and because human and financial resources are not going to be available in the quantity that could simultaneously solve all of them, the Commission believes that amendments to the law should focus on these eight areas of priority concern:

1. **The Council for Private Postsecondary Educational Institutions should be abolished and replaced with a policy body that is regulatory rather than advisory and is structured to include members of the entire postsecondary educational community. This body should be charged with the responsibility of developing policies and procedures for the oversight and licensure of private postsecondary education, including the responsibility for managing a broadly con-**

strued policy and planning process that seeks to improve State accountability for private postsecondary education as well as to improve the articulation of private postsecondary education with the general postsecondary educational community. This new body should provide the leadership and planning needed to maintain and develop a strong private sector of this community.

2. The Private Postsecondary Education Division within the State Department of Education should be eliminated. Its oversight and licensure functions should be carried out instead by postsecondary educational specialists who are familiar with postsecondary educational management and quality control as well as with both academic and vocational and non-profit and proprietary education.

3. The law should be amended to give the new regulatory body the capacity to make selective judgments about the basis on which accreditation will be used for state licensure review.

4. The law should initially focus the State's review and oversight functions on accredited vocational schools and on degree-granting non-accredited institutions. The law should specifically exempt non-profit regionally accredited degree-granting institutions from the provisions of State review. However, the new regulatory board should prepare a review of the integrity of the regional accreditation processes as compared to the effectiveness of the State licensure process, with recommendations to the Governor and Legislature on the appropriateness of this exemption. This should be prepared by December 1997 to coincide with the recommended five-year sunset for the law.

5. The categories of "approved" and "authorized" institutions should be abolished and replaced with a single category of "licensed" institution. A candidacy period for new schools should be established, and the new board should be given the responsibility for writing the minimum standards for meeting this initial status. Institutions should be allowed to remain on probationary status for no more than two years, by which time they either should be fully licensed or closed.

6. The State licensure process should be sufficiently rigorous, detailed, and frequent to achieve the Legislature's intention to protect the integrity of degrees and diplomas by private institutions. Language in the law implying the "comparability" of State approval to accreditation should be eliminated, and the law should contain minimum standards of quality, including evidence of bona fide instruction through student-faculty interaction, as well as a definition of what constitutes a degree.

7. The new regulatory board should have adequate legal and administrative staff to expedite the development and promulgation of regulations as well as the handling of student and institutional appeals. The law should include language clearly delineating the basis on which appeals will be accepted to ensure reasonable institutional access to redress grievances while expediting the appeals process and discouraging dilatory action.

8. State resources necessary to support the operation of the Board and its staff should be provided as a supplement to institutional fees and Veterans Administration funds.

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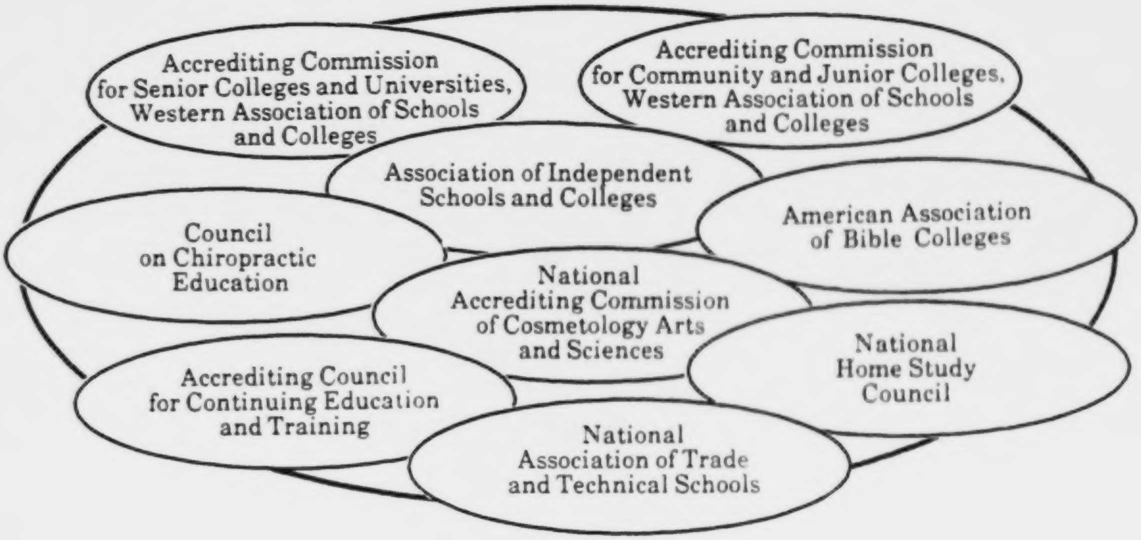
THE STATE'S RELIANCE ON NON-GOVERNMENTAL ACCREDITATION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Accrediting Commission for Community and Junior Colleges, Western Association of Schools and Colleges
Association of Independent Schools and Colleges
Council on Chiropractic Education
American Association of Bible Colleges
National Accrediting Commission of Cosmetology Arts and Sciences
National Home Study Council
Accrediting Council for Continuing Education and Training
National Association of Trade and Technical Schools

CALIFORNIA POSTSECONDARY
EDUCATION COMMISSION

Summary

Since 1958, California has relied on non-governmental accrediting agencies to maintain standards of quality and integrity in its accredited private colleges, universities, and vocational schools. In doing so, the State has exempted these institutions from review by its own licensing agency -- the Private Postsecondary Education Division of the State Department of Education.

Through Assembly Concurrent Resolution 78 (Hughes, 1988), the Legislature directed the California Postsecondary Education Commission to review this policy and to consider whether any or all of the responsibilities currently delegated to accrediting agencies should be assumed by the State. In carrying out this request, the Commission reviewed the operation, procedures, and standards of nine nationally recognized accrediting commissions that accredit approximately 95 percent of all accredited postsecondary institutions in the State.

This report contains the findings of that review. Part One on pages 1-4 contains a summary of findings and recommended policy guidelines regarding California's reliance on accreditation. Part Two on pages 5-8 then explains the origins and methods of the study. Part Three on pages 9-24 focuses on the nature and limits of accreditation at large. Part Four on pages 25-30 discusses the three basic purposes for which the State relies on accrediting agencies. Part Five on pages 31-40 gives specific examples of the State's overreliance on these agencies along with a set of seven premises for establishing a coherent policy for State oversight of private postsecondary institutions.

As the first report in a series of three Commission reports on California's oversight of private postsecondary institutions, this report does not contain detailed recommendations for changes in State oversight or its reliance on accrediting agencies. Instead, it seeks to provide the basis for such recommendations in the third of the series, *Recommendations for Revising the Private Postsecondary Education Act of 1977* (April 1989).

The Commission adopted this report at its meeting on March 21, 1989, on recommendation of its Policy Evaluation Committee. Additional copies of the report may be obtained from the Library of the Commission at (916) 322-8031. Questions about the substance of the report may be directed to William K. Haldeman of the Commission staff at (916) 322-7991.

THE STATE'S RELIANCE ON NON-GOVERNMENTAL ACCREDITATION

A Report to the Legislature in Response
to Assembly Concurrent Resolution 78
(Resolution Chapter 22, 1988)

CALIFORNIA POSTSECONDARY EDUCATION COMMISSION
Third Floor • 1020 Twelfth Street • Sacramento, California 95814-3985

COMMISSION REPORT 89-13
PUBLISHED MARCH 1989

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1 Findings and Policy Guidelines

Findings

1. *Extent of accreditation:* Some 900 institutions of postsecondary education in California are currently accredited by one or another of nine federally recognized accrediting agencies:

   The Accrediting Commission for Community and Junior Colleges of the Western Association of Schools and Colleges (WASC)

   The Accrediting Commission for Senior Colleges and Universities of WASC

   The Accrediting Council for Continuing Education and Training

   The American Association of Bible Colleges

   The Association of Independent Colleges and Schools

   The Council on Chiropractic Education

   The National Accrediting Commission of Cosmetology Arts and Sciences

   The National Association of Trade and Technical Schools

   The National Home Study Council

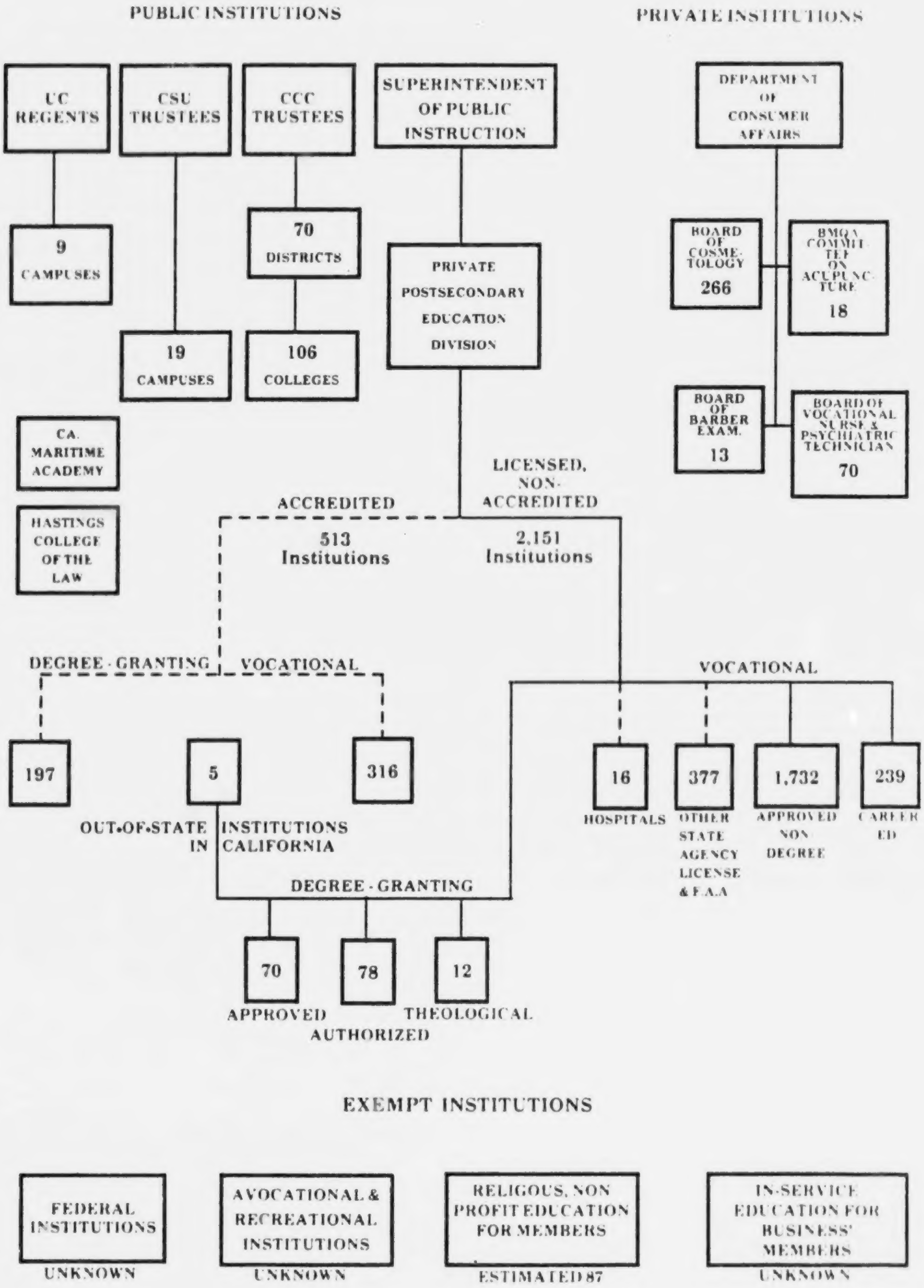
   These 900 institutions include all of the State's 136 publicly-supported colleges and universities, plus 764 private degree-granting and non-degree-granting institutions. The distribution of the responsibilities for the oversight of these institutions in the State is illustrated by the diagram on the following page.

2. *Importance of accreditation:* The non-governmental accreditation of postsecondary institutions is a socially important process that warrants State encouragement and support. It is essentially a process of peer evaluation. Its participants define standards of quality and seek to improve their educational programs and institutions through a self-regulatory means that involves both internal and external evaluation components. Both its strengths and its weaknesses emanate from its voluntary non-governmental nature that depends heavily upon peer pressure to achieve its ends. In 1984, the Commission recommended that California should "protect and preserve" non-governmental accreditation; and that the State should not attempt to replace or duplicate non-governmental accreditation in "its role in promoting educational quality." The Commission hereby reaffirms that recommendation.

3. *State reliance on accreditation:* Once an institution is accredited by an accrediting agency, California relies on its accredited status and the continuing monitoring of the accrediting agency in three ways: (1) to stand in lieu of the standards and the monitoring of its own oversight agency -- the Private Postsecondary Education Division of the State Department of Education -- in ensuring consumer protection and the integrity of degrees; (2) to establish an institution's eligibility to participate in State and federal student aid programs; and (3) to certify institutional quality as a basis for admitting the graduates of these institutions to professional licensure examinations. In effect, the State accepts the judgments of *all* federally recognized accrediting commissions regarding the quality, integrity and stability of institutions and their programs on the assumption that the judgments of all these agencies ensure institutional compliance with the State's minimum standards for consumer protection. In the judgment of the Commission, this is a most serious relinquishing of responsibility on the part of the State.

4. *Evidence of overreliance on accreditation:* Problems arise from this nearly total dependence on non-governmental associations because accreditation and State oversight differ fundamentally in (1) their bases of authority, (2) their purposes, (3) their standards, and (4) their procedures. Accreditation focuses on the voluntary improvement of educational institutions by means of peer review, and the enforcing of state and federal statutes inhibits this process. In contrast,

State Oversight of Postsecondary Education Institutions in California


PUBLIC INSTITUTIONS
PRIVATE INSTITUTIONS
UC REGENTS
CSU TRUSTEES
CCC TRUSTEES
SUPERINTENDENT OF PUBLIC INSTRUCTION
DEPARTMENT OF CONSUMER AFFAIRS
9 CAMPUSES
70 DISTRICTS
PRIVATE POSTSECONDARY EDUCATION DIVISION
BOARD OF COSMETOLOGY 266
BMQA COMMITTEE ON ACUPUNCTURE 18
19 CAMPUSES
106 COLLEGES
BOARD OF BARBER EXAM. 13
BOARD OF VOCATIONAL NURSE & PSYCHIATRIC TECHNICIAN 70
CA. MARITIME ACADEMY
HASTINGS COLLEGE OF THE LAW
LICENSED, NON-ACCREDITED
ACCREDITED
513 Institutions
2,151 Institutions
DEGREE-GRANTING
VOCATIONAL
VOCATIONAL
197
5
316
16
377
1,732
239
HOSPITALS
OTHER STATE AGENCY LICENSE & F.A.A
APPROVED NON DEGREE
CAREER ED
OUT-OF-STATE INSTITUTIONS IN CALIFORNIA
DEGREE-GRANTING
70
78
12
APPROVED
AUTHORIZED
THEOLOGICAL
EXEMPT INSTITUTIONS
FEDERAL INSTITUTIONS
UNKNOWN
AVOCATIONAL & RECREATIONAL INSTITUTIONS
UNKNOWN
RELIGOUS, NON PROFIT EDUCATION FOR MEMBERS
ESTIMATED 87
IN-SERVICE EDUCATION FOR BUSINESS' MEMBERS
UNKNOWN

Source: California Postsecondary Education Commission staff analysis.

State oversight seeks to ensure the maintenance of minimum educational standards and of essential consumer protection -- and enforcing compliance with these requirements. This function should not be delegated without restriction to all recognized accrediting agencies. Moreover, these agencies vary significantly in their policies and procedures, their standards, and the rigor of their operations. Some have particular problems with institutions closing abruptly without making proper arrangements for their students and institutions with high default rates on State and federal loans.

5. *Need for flexible State reliance on accreditation:* These variations in accrediting agency problems and practices require a more flexible State policy on accreditation than has been maintained during the past several decades. The Legislature has established in statute a blanket policy of full reliance upon federally-recognized accrediting agencies for consumer protection provisions, but the State can be assured about the relative effectiveness of these accrediting agencies only if the agencies can demonstrate that their standards and procedures substantially cover the standards and consumer protection requirements of the State's licensing laws.

   The State should hold all private institutions accountable for meeting its licensing laws, but it should provide some relief from a duplicative institutional assessment by its licensing agency for those institutions that have successfully undergone a review by an accrediting agency the standards and procedures of which are judged to adequately cover the State's laws.

6. *Licensure of out-of-state accredited institutions:* The State's review and licensure of branches of out-of-state accredited institutions operating in California (*Education Code* 94310.1b) is an exception to the policy of general reliance upon accreditation. This part of the licensing statutes provides an example of how State licensure and accreditation might work together with regard to other types of accredited institutions.

   The addition of this Section of the Code requiring the licensure of branches of out-of-state institutions was made at a time when regional accrediting associations outside of California were not providing adequate review of their California branches. The State's licensing agency was given the responsibility through Senate Bill 1036 (1985, Montoya) to conduct licensing reviews of the operations "whenever possible in conjunction with institutional reviews by the regional accrediting association."

7. *Minimal collaboration between State licensing agency and accrediting agencies:* State licensure and institutional accreditation share some similar concerns relating to the integrity and stability of institutions. Both functions can become stronger and more effective when the agencies involved collaborate. Because the Private Postsecondary Education Division has little authority over accredited institutions, there are few occasions for collaboration to be exercised. The Division is further handicapped by not having the resources to mount an effective cooperative effort with accrediting agencies because of the Division's inability to collect licensing fees from accredited institutions.

   A number of different types of working relationships are possible. These include joint visits to an institution during which both licensure and accreditation concerns are covered, the inclusion of a State staff participant or observer on an accreditation visit, or the routine exchange between agencies of pertinent institutional information. Examples of such cooperation found in other states show that collaboration is both possible and desirable. There are compelling reasons for promoting cooperation between the agencies which implement the complementary functions of State licensure and non-governmental accreditation. The lack of cooperation can lead to misunderstandings about the scope of review being undertaken, or it can lead to duplicative and perhaps unnecessary reviews. Close cooperation, on the other hand, can provide mutual support and can increase the benefits of both types of institutional reviews.

8. *Gaps in the State's postsecondary institution data base:* The California Postsecondary Education Commission annually collects statistical data from about one-fourth of the approximately 2,600 postsecondary institutions in the State.

The Commission is able to secure only scattered information about the education of an estimated 500,000 students each year, 200,000 of whom attend accredited vocational schools. The Commission seeks to collect information from vocational schools that offer programs of two or more years in length; but it does not survey vocational schools offering less than a two-year program because their response rate has been too low to justify the expense. The Commission concludes from this experience that the provision of institutional data to the State's Postsecondary Education Data Base should probably be a statutory requirement for operating a private postsecondary institution in the State, since voluntary participation in supplying institutional data has led to significant and critical gaps in the information State policy makers have regarding educational services in the State.

These findings lead to the following two guidelines for State policy:

- **In the oversight of private postsecondary institutions in California, the State should retain the responsibility for ensuring compliance with its minimum quality standards and consumer protection laws.**

- **The State should rely upon individual accrediting agencies for purposes of protecting the consumer and maintaining the integrity of degrees and other awards on an agency-by-agency basis as determined by the appropriate State agency. Such reliance should be found appropriate only when an accrediting agency can demonstrate that its standards and procedures substantially cover the standards and consumer protection requirements in the State's licensing laws and that these are rigorously enforced. This decision to rely on an accrediting agency for this purpose should be subject to periodic evaluation by a responsible agency of the State.**

2

Impetus for the Study

IN 1984, the Commission examined California's policy of exempting accredited institutions from State oversight in its report, *Public Policy, Accreditation, and State Approval*. At issue in that study were such questions as the extent of the State's dependence upon a non-governmental process as an indicator of quality for the State's professional licensure processes and the dispensing of student financial aid; the increase in the number of specialized accrediting agencies and the resultant increase in costs and external pressures that these additional accrediting requirements imposed on both private and public institutions; the efficacy of accreditation in the protection of students as consumers of education; and the necessity for greater cooperation between the State's postsecondary oversight agency and the accrediting agencies in the review of out-of-state accredited institutions operating off-campus centers in California.

The Commission's 1984 report contained 14 recommendations relating to these issues (reproduced in Appendix A), among which were recommendations that the State should continue its reliance upon non-governmental accreditation while encouraging improvements in both the accreditation and State licensure standards and procedures. Since then, the State amended its statutes to provide State licensure of out-of-state accredited institutions operating in California, a revised State institutional approval process, and authority to the Superintendent of Public Instruction to rescind the license of an accredited vocational institution if the institution is not in compliance with the standards of its accrediting association. But the State's policy of relying on non-governmental accrediting associations for overseeing the operations of their member institutions has remained unchanged.

The present report continues the discussion of this issue. Through Assembly Concurrent Resolution 78 (Hughes, 1988; reproduced in Appendix B), the Legislature directed the Commission to "conduct a study of the operations and procedures of accrediting associations which accredit postsecondary institutions operating pursuant to either Section 94310.1 (degree-granting institutions) or subdivision (c) of Section 94311 of the *Education Code*."

As a result, in this report the Commission has examined in more detail than the earlier report had done the purposes and operations of accrediting associations that accredit postsecondary institutions in the State. These include the national accrediting commissions such as the Association of Independent Colleges and Schools and the National Association of Trade and Technical Schools which were not reviewed in 1984.

A number of important problems have motivated a return to this policy arena.

- Accreditation continues to be used as the basis for directing the student aid funds provided by the federal and state governments to qualifying institutions. The increasing competition among institutions for these funds and the continuing concern with high default rates among the graduates of certain types of institutions suggest that we should evaluate whether the current process of determining institutional accountability for these funds is working satisfactorily.
- New branches of institutions of all types multiply throughout the State, increasing access to postsecondary opportunities, but also increasing interinstitutional competition and multiplying the difficulties associated with monitoring quality. A review of the procedures used by the accrediting commissions for evaluating the off-campus centers of their member institutions may aid State agencies in deciding what, if any, additional oversight is necessary.
- The recent abrupt closures of accredited proprietary institutions which resulted in serious loss of time and money to students and to the State and federal governments raise questions about the quality of communication and cooperation between the State's licensing arm, the Private Postsecondary Education Division, and the various accrediting agencies responsible for accrediting California's institutions.

- The growing recognition of the public benefits of non-governmental accreditation and the quasi-public nature of the accrediting associations' work prompt a continuing concern for their capacity to act in the public interest. The composition of the association boards, and the procedures used to nominate and select commission members all influence this capacity. The State maintains an interest in the extent to which accrediting commissions which accredit institutions in California are able to act in the public interest.
- Over the past decade, the State has made an effort to raise the standards it employs for licensing nonaccredited postsecondary institutions. Yet the relationship between these standards and procedures for State licensure and the standards and procedures used in non-governmental accreditation remains unclear. The Legislature's intent of protecting "the integrity of degrees" through licensure and accreditation, as expressed in the Private Postsecondary Education Act of 1977, is explicit: the implementation of this intent is still subject to intense debate over such issues as levels of quality and definitions of degrees.

Concurrent with this review of accreditation, the Commission is also conducting a review and evaluation of the administration of the entire Private Postsecondary Education Act of 1977 and the effectiveness of the Act's provisions for approving and authorizing nonaccredited institutions to award degrees. Both the conclusions and recommendations of the present report and those of this parallel Commission evaluation of the Private Postsecondary Education Act will provide the basis for Commission advice on possible amendments and reinstatement of the Act upon its sunsetting on June 30, 1991.

Methods of the study

The accrediting associations selected for review were chosen if they met the following criteria:

1. The association is a non-governmental, voluntary organization;
2. It is recognized by the federal Department of Education; and
3. It provides the sole institutional accreditation for five or more postsecondary institutions in California.

A questionnaire was sent to the executive director of each of the nine accrediting commissions. The questionnaire asked for information about the operations and procedures of the commission and about its membership.

Data were also collected from a number of State agencies having some type of oversight over accredited private postsecondary institutions. These agencies included the Private Postsecondary Education Division of the State's Department of Education, the California Student Aid Commission, the Commission on Teacher Credentialing, and the Department of Consumer Affairs (including a number of its licensing boards). In connection with the Commission's current study of the Private Postsecondary Education Act under the direction of JB Hefferlin, information was also sought from other states regarding their reliance on non-governmental accreditation.

Acknowledgements

To help with the study, the Commission appointed a technical advisory committee consisting of the following members:

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The Commission wishes to thank them for their assistance in the study, together with the officials of the nine accrediting agencies discussed in this report.

3 *Nature and Limits of Accreditation*

WESTLAND College, enrolling 1,200 students on its two campuses in Sacramento and Clovis (near Fresno), opened in 1981 and was accredited in 1983 by the Association of Independent Schools and Colleges -- a non-governmental accrediting association headquartered in Washington, D. C. In 1985, Westland was audited by the California Student Aid Commission and the U.S. Department of Education, during which more than $500,000 in liabilities were disclosed, and in late 1985 it was fined $50,000 by the Department of Education. On or about February 11, 1986, the Private Postsecondary Education Division of California's State Department of Education was informed of the sale of Westland's assets to Sierra College of Business and authorized the institution to continue operation. About February 19, 1986, the Association of Independent Schools and Colleges extended the institution's accreditation under the new owner. On May 1 of that year, the institution closed, leaving a liability of some $600,000 in unpaid student tuition refunds and unauthorized federal funds.

During the past three years, 44 of California's accredited private postsecondary institutions closed. Fifteen of them were accredited by the Association of Independent Colleges and Universities, and 12 by the National Association of Trade and Technical Schools. One chain of eight AICS schools in California closed abruptly, leaving hundreds of students stranded with incomplete programs that were not transferable to other colleges and with federal student loans they could not afford to pay

Institutional closures create one of several types of problems that prompt the questions raised by ACR 78. In brief, these questions can be reduced to two: (1) Should the State continue to rely on non-governmental accreditation to fulfill any of the State's oversight responsibilities? and (2) If so, what is the appropriate relationship between the responsibilities of the accrediting agencies and State oversight? To answer these questions requires an understanding of the nature of accreditation and of accrediting agencies.

Nature of accreditation

As noted in Part One, the accreditation of postsecondary institutions is essentially a process of peer evaluation. Its participants define standards of quality and seek to improve their educational programs and institutions through a self-regulatory means that involves both internal and external evaluation components. Both its strengths and its weaknesses emanate from its voluntary, non-governmental nature which depends heavily upon peer pressure to achieve its ends.

Accreditation is uniquely an American phenomenon. While other countries have centralized educational systems that define the purposes, standards and limits of its various educational institutions, our federal government is given no direct powers over education. These powers devolve to the states as a result of the Tenth Amendment of the Constitution. The states express these powers by establishing publicly supported educational institutions and by chartering or licensing private institutions.

The decentralization of responsibilities for setting educational standards left the nation without a means for attaining a consensus on such matters. Prior to the beginning of the twentieth century, the United States had no established method for maintaining an educational currency of credits and degrees that would be understood throughout the country. The absence of national standards for both secondary and postsecondary institutions led to wide variations in standards from state to state. In 1895, the first voluntary associations of these institutions formed for the purposes of defining the high school and college and developing quality guidelines and procedures of peer review.

Out of this need for national standards, two basic types of accrediting bodies developed: institutional and programmatic or professional.

- Institutional accrediting bodies review the entire institution including its educational offerings, student personnel services, financial condition and administrative strength. These bodies are either regional or national in scope.

- Programmatic accrediting bodies, as a rule, review a specialized part of an institution. These bodies are generally associated with an occupation or profession and are concerned with those parts of an institution which contribute to the training for that occupation.

The two basic types of accreditation developed almost contemporaneously during the last decade of the nineteenth century and the first decade of the twentieth. The first institutional associations the North Central and the Southern regional associations -- were organized in 1895; the first programmatic associations -- the American Association of Law Schools, the Society of American Foresters, and the Committee on Education of the American Osteopathic Association -- were organized in 1900, 1900, and 1901, respectively.

The Postsecondary Education Commission examined the development of both types of accreditation in some depth in its 1984 report. As a result, the present report omits some elements of general background about them. Additional details on their evolution can be found in the earlier document. The Commission's obligations in this report, however, require that it review at least three facets of accreditation -- its purposes, its basis of authority, and its chief elements.

The purposes of accreditation

The Council on Postsecondary Accreditation (COPA) a national association of accrediting commissions, describes the purposes of accreditation in six major goals (Young, 1983, pp. 22-23):

1. To foster excellence in postsecondary education through the development of criteria and guidelines for assessing educational effectiveness.
2. To encourage improvement of institutions and programs through continuous self-study and planning.
3. To assure other organizations and agencies, the education community, and the general public that an institution or a particular program has both clearly defined and appropriate objectives, maintains conditions under which their achievement can reasonably be expected, appears in fact to be accomplishing them substantially, and can be expected to continue to do so.
4. To provide counsel and assistance to established and developing institutions and programs.
5. To encourage the diversity of American postsecondary education and allow institutions to achieve their particular objectives and goals.
6. To endeavor to protect institutions against encroachments that might jeopardize their educational effectiveness or academic freedom.

Although these purposes include "the development of criteria and guidelines for assessing educational effectiveness," the establishing of quality thresholds or minimum standards is a practice that most institutional accrediting associations tend to avoid. As Kenneth Young puts it, "accreditation as a whole is more accurately characterized as an elaborate process that involves many people making subjective judgments, individually and collectively" (ibid.). In a statement on "The Role and Value of Accreditation" adopted by the Board of the Council on Postsecondary Accreditation in 1982, accreditation is represented as having two fundamental purposes: "to assure the quality of the institution or program, and to assist in the improvement of the institution or program." "The ultimate test of institutional accreditation," Young states, "is whether the accredited institution is acceptable to other accredited institutions" (p. 24).

The COPA statement of the purposes of accreditation generally represented a national consensus in the early 1980s, but that consensus may be breaking down. For example, a representative of the Senior Commission of the Western Association of Schools and Colleges (WASC) states that the COPA purposes do not fully reflect the purposes of WASC. "These statements [purposes] are incomplete to the extent that they do not reflect one of our major goals, indeed the first major goal, which is to determine if institutions are in compliance with our standards." Few other associations are as clear as WASC is about the accrediting association's responsibility to provide rigorous external standards for the accrediting process.

Peer acceptance as the basis of accreditation's authority

Postsecondary accreditation evolved as a voluntary enterprise in which an institution could choose or not choose to seek an evaluation by its peers. At some point early in the lives of institutions, many choose this association because it lends credibility to their programs. Once accredited, an institution can then attract a better quality of students and a higher level of financial support. Its regard in the educational community and with the public at large is heightened. The authority of the accredited institution in this type of voluntary environment is based on the collective credibility of the institutions with which it has associated.

Today accreditation can no longer be considered entirely voluntary. Eligibility for federal funds and, more often than not, professional licensure at the State level require that an institution be accredited. This governmental reliance upon accreditation, though readily accepted by the accrediting bodies, has nevertheless increased governmental expectations of accrediting commissions to a point which may require a substantial change in the purposes of accreditation. To understand how these expectations might affect accreditation, we must first review the general elements of the accreditation process.

Elements of accreditation

Certain ingredients are common to all non-governmental accrediting entities:

1. A fostering association which develops and publishes a set of standards and procedures;
2. An institutional self-study, based on the association's guidelines, which examines the institution's effectiveness in attaining its own mission and objectives;
3. An evaluation of the institution by a team of experts from outside the institution which spends time at the institution reviewing the institution in light of the association's standards and the institution's mission;
4. A written team report which contains both commendations and recommendations to the institution and a recommendation to the accrediting commission regarding initial or continuing accreditation; and
5. A decision by the accrediting commission to accredit or not to accredit the institution.

Every element of this process is critical to the overall success of accreditation as a measure of institutional quality, but accrediting agencies vary greatly in the degree of rigor with which these elements are implemented. Only when all these elements are effectively administered can the State consider that its reliance upon accreditation is conceivably appropriate. Potential difficulties exist with each step in the process:

1. The standards may not be explicit enough nor comprehensive enough to provide a firm basis for evaluation of institutional effectiveness.
2. Institutional self-studies may be incomplete or may lack objective data about the institution's effectiveness.
3. The visiting team may be untrained, may not be fully expert on all aspects of the institution under evaluation, or may spend too brief a period of time on site reviewing the institution.
4. The visiting team's report may not cite important deficiencies at the institution or may lack specific support for deficiencies cited.
5. The accrediting commission may not be representative of the community of interest (especially the general public) or may have too heavy an agenda to be able to give careful consideration to each case.

Accrediting bodies show important variations in composition, size, and workload

While most accrediting bodies exhibit the common characteristics and purposes discussed above, they also differ in crucial ways. This section and the one to follow (page 18) discusses these differences by first examining the physical features of accrediting associations and then reviewing their standards and procedures.

The purpose of this discussion is to underscore the fact that what appears to be a simple, consistent State policy of relying on accreditation turns out to be a State policy of substantial irregularity in the treatment of private institutions. In the course of analyzing the differences among the accrediting bodies, we do not attempt to rank or grade them. Most have strong points worthy of emulation, and all have weak points that need strengthening. The objective of presenting the data in Displays 1 through 8 and the discussion of workload characteristics and differential standards is to demonstrate that the diversity among accrediting associations is too great for the State inflexibility to rely on.

Clearly, a primary reason for the variation among the nine associations we reviewed lies in the makeup of the associations' constituent institutions. Practices, standards, procedures tend to vary because of differences (1) in the basis of control (public, private/non-profit, or private/for-profit) and (2) in the academic or vocational objectives of its programs. Analyzed along these dimensions, the California institutions accredited by these associations fall into the categories displayed in Display 1.

Descriptions of these accrediting commissions are stated in Display 2 in terms of the types of institutions they accredit. A more complete statement of their purposes is contained in Appendix D.

A selective comparison of the differences in procedures and standards among these nine commissions is the subject of the discussion that follows. In some cases, the differences are rather obvious and need little exposition: for example, it is clear that associations composed of not-for-profit, degree-granting institutions differ in important ways from associations composed totally of for-profit, vocational schools. Similarly, it may be easily apparent, but still noteworthy, that some associations composed entirely of single-purpose institutions (in particular the American Association of Bible Colleges, the Council on Chiropractic Education, and the National Accrediting Commission of Cosmetology Arts and Sciences), have quite homogeneous constituencies while others (especially the National Home Study Council and, to some extent, the Senior Commission of WASC), have a much more diverse set of member institutions.

Variety of institutions accommodated

From time to time, accrediting commissions have been criticized for too much sameness, and too little accommodation of institutional differences. The criticism may be apt where associations have insisted on familiar patterns of educational resources and processes as evidence of quality, but this practice is changing and, thus, the criticism is less pertinent today. The range of types of accrediting associations and the range of differences accommodated within accrediting associations is rapidly expanding. Today there are more than 80 institutional and professional accrediting associations recognized by the federal Department of Education.

The range of types of institutions accommodated by the nine associations covered in this report includes traditional residential colleges and universities, commuter colleges, external degree institutions, a free-standing (i.e., single-purpose) graduate institution, a free-standing law school serving predominantly minority and older adult students, a college requiring study in the Third World, the only institution in the Western World whose mission it is to serve the Armenian community, a nontraditional institution offering doctoral degrees integrating Eastern philosophy with Western psychology, a college founded on the basis of supporting the study of scientific creationism, an institution offering master's degrees in computer science through satellite telecommunications, and an institution offering doctoral degrees in public policy studies as part of the operations of the Rand Corporation.

In actuality, this range of institutions is accredited by just one of the nine commissions -- the Senior Commission of WASC. With the exception of the first two types in this list, these institutions are not what the layperson would call "mainline" institutions, even though they have been assessed against the substantial standards this Association uses for accrediting the more traditional institutions.

Taken together, the other eight accrediting commissions accredit an even wider range of institutions including two-year degree and non-degree institutions, home study schools (both degree and non-degree types), business schools (both degree and non-degree types), trade and technical schools (both degree and non-degree types), bible colleges, chiropractic colleges, cosmetology schools, continuing education and training programs in foreign languages, public speaking, hypnosis, truck driving, financial planning, massage, child birth education, and banking.

DISPLAY 1 Number of Accredited Postsecondary Institutions in California by Level, Type, and Accreditation, 1988

	Public	Private, Non-Profit	Private, For-Profit
Baccalaureate degrees and above	30 Senior Commission, WASC	99 Senior Commission, WASC 5 Council on Chiropractic Education 6 American Association of Bible Colleges	3 Senior Commission, WASC 1 National Home Study Council 7 National Association of Trade and Technical Schools
Awards of less than four years but at least two years	106 Junior Commission, WASC	20 Junior Commission, WASC	3 Junior Commission, WASC 13 National Association of Trade and Technical Schools 10 Association of Independent Colleges and Schools 1 National Home Study Council
Awards of less than two years	7 Junior Commission, WASC	2 National Home Study Council 1 American Association of Bible Colleges 10 Accrediting Council for Continuing Education and Training	230 National Accrediting Commission of Cosmetology Arts and Sciences 203 National Association of Trade and Technical Schools 150 Accrediting Council for Continuing Education and Training 45 Association of Independent Colleges and Schools 10 National Home Study Council

Source: California Postsecondary Education Commission.

The variety of accrediting associations allows for some degree of specializing. The National Association of Trade and Technical Schools accredits only proprietary schools. The National Home Study Council accredits only correspondence schools, and WASC, sr. accredits only institutions that grant the baccalaureate and higher degrees. The process these associations must go through in order to be recognized by the national Council on Postsecondary Accreditation or the United States Department

DISPLAY 2 Accrediting Associations Recognized by the Federal Department of Education That Accredit Postsecondary Institutions Based and Operating in California

ACCREDITING COMMISSION FOR COMMUNITY AND JUNIOR COLLEGES, WASC: The Western Association of Schools and Colleges is one of six regional accrediting associations covering the United States, whose purpose is continual improvement of education and cooperation among educational institutions. WASC accredits institutions in California, Hawaii, the Federated States of Micronesia, the Commonwealth of the Northern Marianas, the Marshall Islands, the Republic of Palau, Guam, American Samoa and other areas of the Pacific Basin. WASC is composed of three separate accrediting commissions -- the two cited here and the Accrediting Commission for Schools, which is responsible for accrediting secondary and some elementary schools.

The Accrediting Commission for Community and Junior Colleges of WASC provides accreditation services for one and two-year postsecondary educational institutions in the region described above. The Commission evaluates institutions; specialized program accreditation is furnished through other agencies.

ACCREDITING COMMISSION FOR SENIOR COLLEGES AND UNIVERSITIES, WASC: WASC's "Senior Commission" accredits degree-granting institutions and the baccalaureate and graduate levels throughout the WASC region described above.

ACCREDITING COUNCIL FOR CONTINUING EDUCATION AND TRAINING (ACCET): Formerly named the Council for Noncollegiate Continuing Education, the Council is a voluntary group of educational organizations established in 1974 to assess the quality of continuing education programs in the noncollegiate, noncredit field.

AMERICAN ASSOCIATION OF BIBLE COLLEGES (AABC): AABC is an autonomous league of colleges seeking to enhance Christ-centered, biblically-based higher education in North America. AABC accredits private, non-profit institutions at the baccalaureate level; its authority does not extend to accrediting institutions at the graduate level.

ASSOCIATION OF INDEPENDENT COLLEGES AND SCHOOLS (AICS): The Accrediting Commission of AICS operates within the corporate structure of the Association. AICS is a national, non-profit educational association comprised of institutions accredited by the Commission. The Commission accredits eligible institutions in the United States and its territories which offer programs that prepare students for careers in business or business-related professions. It also accredits schools outside the United States if their organizational structure and program of instruction are comparable to those in this country.

COUNCIL ON CHIROPRACTIC EDUCATION (CCE): CCE is a national organization advocating high standards of quality in chiropractic education, establishing criteria of institutional excellence for educating primary health care chiropractic physicians, inspecting and accrediting colleges through its Commission on Accreditation, and publishing lists of those institutions which conform to its standards and policies.

NATIONAL ACCREDITING COMMISSION OF COSMETOLOGY ARTS AND SCIENCES (NACCAS): NACCAS accredits private postsecondary schools and departments of cosmetology arts and sciences located within the United States jurisdiction.

NATIONAL ASSOCIATION OF TRADE AND TECHNICAL SCHOOLS (NATTS): NATTS is a voluntary association of private schools. The primary purpose of the Accrediting Commission is to establish and maintain high educational standards and ethical business practices in its field. Only private postsecondary residential schools with trade or technical educational objectives are eligible for accreditation.

NATIONAL HOME STUDY COUNCIL (NHSC): The Accrediting Commission of the NHSC establishes educational, ethical, and business standards; it examines and evaluates home study schools in terms of these standards, and accredits those that qualify. The Commission is recognized to accredit private and non-private correspondence institutions at the degree and non-degree level.

Source: California Postsecondary Education Commission.

of Education requires that they demonstrate a need for their services that is not being served by some other agency:

> Duplication of accrediting in the same general area is to be avoided since it invites inconsistent and contradictory standards and accrediting actions and thus leads to confusion on the part of students, institutions, and the public (Council on Postsecondary Accreditation, 1982).

> ...it is unlikely that more than one association or agency will qualify for recognition (1) in a defined geographical area of jurisdiction or (2) in a defined field of program specialization within secondary or postsecondary education (United States Department of Education, 1988). (A complete set of the federal *Criteria and Procedures* is reproduced in Appendix C.)

Variety of institutional membership among accrediting associations as well as within individual associations is not the only important difference to note. Associations differ in size of membership, composition of the decision-making body (commission, council), size of staff and workload, and the rigor of association standards and accrediting procedures. As their membership and purview are limited in scope, so these other factors sometimes limit an association's perspective. These limitations then may affect an association's effectiveness in areas of responsibility the State has expected the accrediting body to discharge.

Size and scope of accrediting agencies

The size and scope of an accrediting agency in terms of the number and types of institutions it covers can affect the quality of oversight it provides these institutions. Some agencies have relatively few institutions to assess. These institutions are homogeneous and the number of institutions per staff member is relatively low. The latter factor especially (a low number of institutions per staff member) would tend to aid effective assessment and ongoing monitoring of the institutions.

Display 3 on page 16 shows the degree of variation in the total size of membership, and the type of institutions involved.

The accrediting associations, which include both regional and national associations, also vary appreciably in the proportion of their institutional membership that is comprised of California institutions. Information in Display 4 on page 17 indicates, for example, that the two regional commissions in WASC have a very large California representation while AABC and AICS, both national commissions, have only 7 percent and 5 percent, respectively, of their institutions in this State.

An accrediting agency discharges its oversight responsibilities most directly when it takes a formal action regarding an institution under its purview. When a commission takes an action to accredit, renew an accreditation, place an institution on probation, or revoke its accreditation, the full complement of its resources (team visit, staff analysis, conferring with the leaders of the institution, deliberation by the commission) are usually brought into the decision-making process. Thus, the amount of attention paid to its member institutions is indicated by the number of formal actions a commission takes.

The size of staff and the size of a commission's operational budget are also indicative of the level of oversight an accrediting organization is able to provide. Display 5 on page 18 reduces the information about the size of staff and number of visits to two coefficients in order to simplify the comparison of different sized accrediting associations.

- The first (Staffing Level) indicates the amount of staff attention available to prepare each decision as indicated by the number of available staff divided by the number of actions taken.
- The second (Monitoring Level) indicates a level of attention individual institutions received from their accrediting commission as measured by the number of official actions taken by the commission divided by the number of institutions. To help provide some context for understanding the significance of this number, it is useful to compare it with the coefficient produced by a commission that averages an official review of an institution every five years (i.e., 0.2) or every ten years (i.e., 0.1).

In each case, the higher the coefficient is, the more positive the indicator if one assumes that more external evaluation is a good practice.

As in decisions regarding the licensure of an institution to operate in a state, so also in decisions re-

DISPLAY 3 Types and Number of Institutions Accredited

Association	Degree	Public	Private	Total
National Accrediting Commission of Cosmetology Arts and Sciences	Degree	0	0	0
	Non-Degree	0	1,802	1,802
	Total	0	1,802	1,802
National Association of Trade and Technical Schools	Degree	0	210	210
	Non-Degree	0	1,042	1,042
	Total	0	1,252	1,252
Association of Independent Colleges and Schools	Degree	0	381	381
	Non-Degree	0	759	759
	Total	0	1,140	1,140
Accrediting Council for Continuing Education and Training	Degree	0	0	0
	Non-Degree	0	1,367	1,367
	Total	0	1,367	1,367
Accrediting Commission for Community and Junior Colleges, WASC	Degree	117	24	141
	Non-Degree	7	0	7
	Total	124	24	148
Accrediting Commission for Senior Colleges and Universities, WASC	Degree	36	104	140
	Non-Degree	0	0	0
	Total	36	104	140
American Association of Bible Colleges	Degree	0	86	86
	Non-Degree	0	1	1
	Total	0	87	87
National Home Study Council	Degree	0	7	7
	Non-Degree	4	59	63
	Total	4	66	70
Council on Chiropractic Education	Degree	0	15	15
	Non-Degree	0	0	0
	Total	0	15	15

Source: California Postsecondary Education Commission.

garding the accreditation of an institution, complex issues of quality and institutional integrity are at stake. In the case of licensure, the very existence of the institution may be at risk; in the case of accreditation, the reputation of the institution, its status and its access to federal funds all may be affected. The amount of time an accreditation commission has available to deliberate such weighty matters can be viewed as some indicator of the depth to which an association goes to protect both its institutions and the educational consumer.

Display 6 on page 19 shows the number of meetings they hold each year, the length of these meetings, and the number of actions taken at them. While such meetings nearly always include association business other than accreditation actions, the aver-

DISPLAY 4 *Number of Institutions and Students Served by Each Accrediting Association, Total Region and California*

	Area	Number of Institutions	Number of Students
National Accrediting Commission of Cosmetology Arts and Sciences	Nation	1,802	135,715
	California	230	17,300
National Association of Trade and Technical Schools	Nation	1,252	590,000
	California	223	est. 104,000
Association of Independent Colleges and Schools	Nation	1,140	667,445
	California	57	63,631
Accrediting Council for Continuing Education and Training	Nation	1,367	1,000,000
	California	160	est. 100,000
Accrediting Commission for Community and Junior Colleges, WASC	Region	148	1,284,282
	California	136	1,261,329
Accrediting Commission for Senior Colleges and Universities, WASC	Region	140	>565,000 fte
	California	132	>535,000 fte
American Association of Bible Colleges	Nation	87	29,575
	California	6	2,026
National Home Study Council	Nation	70	1,306,000
	California	14	29,000
Council on Chiropractic Education	Nation	15	9,881
	California	5	2,558

Source: California Postsecondary Education Commission.

age number of actions per meeting compared to the length of these meetings provides an approximation of the range found in the depth of review engaged in by the decision-making body prior to its action regarding the accreditation status of its institutions.

The variation among accrediting agencies is considerable. The National Accrediting Commission of Cosmetology Arts and Sciences, for example, which meets for seven days at a time three times a year, must consider and vote upon 41 accreditation reviews per day. The Accrediting Commission of the National Association of Trade and Technical Schools is required to consider 23 actions per day. In contrast, the agenda of the Senior Commission of the Western Association of Schools and Colleges has an average of only 12 accreditation reviews per day; the National Home Study Council has eight; and the Council for Chiropractic Education has an average of less than 1 per day.

Display 7 on page 20 shows the number of adverse actions taken by the nine agencies during the last year throughout its region and solely in California. An adverse action such as placing an institution on probation, or show cause, demonstrates a firmness in a commission's maintenance of its standards. While there appears to be no basis for assuming that any particular level of adverse actions should be achieved by an association that is firmly upholding its standards, a comparatively low rate of ad-

DISPLAY 5 Accrediting Commission Staff, Workload, and Budget

Association	Number of Institutions	Number of Staff	Staffing Level	Number of Actions/Year	Monitoring Level	Annual Budget
National Accrediting Commission of Cosmetology Arts and Sciences	1,802	27	.03	864	.47	$2,750,000
National Association of Trade and Technical Schools	1,252	20	.05	405	32	1,300,000
Association of Independent Colleges and Schools	1,140	15	.03	450	39	400,000*
Accrediting Council for Continuing Education and Training	1,367	19	.01	150	.11	1,500,000
Accrediting Commission for Community and Junior Colleges, WASC	148	2.5	.08	30	.20	325,331
Accrediting Commission for Senior Colleges and Universities, WASC	140	4.5	.05	90	.64	449,793
American Association of Bible Colleges	87	4	.08	50	.57	265,000
National Home Study Council	70	3	.12	26	.37	610,000
Council on Chiropractic Education	15	4.5	1.13	4	.27	225,000

*AICS annual budget excludes staff salaries.

Source: California Postsecondary Education Commission.

verse actions might be cause for questioning the diligence of an accrediting organization.

Variations in critical accreditation standards and procedures

The foregoing information on differences in composition, size, and workload of the nine accrediting commissions aids in understanding why variations in the oversight of accredited institutions occur. A further examination of a different aspect of these commissions -- the variation in accreditation standards and practices -- reveals more fundamental differences that bear directly upon California's concern for the integrity of postsecondary institutions and the protection of educational consumers. Differences regarding the stability of the institution, the integrity of its programs and administration, and the probity of its dealings with potential and enrolled students strongly call into question California's policy of total exemption from direct State oversight of the 764 private institutions that are currently accredited by these agencies.

Stability of the institution

Of the 44 accredited private postsecondary institutions that ceased operating in California during the past year, 15 were accredited by the Association of Independent Schools and Colleges, as noted earlier, and 12 were accredited by the National Association of Trade and Technical Schools. By comparison, each of the two postsecondary commissions of the Western Association of Schools and Colleges had only one closure during this time, although com-

DISPLAY 6 Accrediting Commissions' Length of Meetings, Compared With the Number of Actions

Association	Number of Meetings/Year	Length of Meetings	Number of Actions/Meeting
National Accrediting Commission of Cosmetology Arts and Sciences	3	7 days	288
National Association of Trade and Technical Schools	3	6 days	135
Association of Independent Colleges and Schools	3	5 days	150
Accrediting Council for Continuing Education and Training	3	3-4 days	50
Accrediting Commission for Community and Junior Colleges, WASC	2	2 days	15
Accrediting Commission for Senior Colleges and Universities, WASC	3	2.5 days	30
American Association of Bible Colleges	1	3 days	19
National Home Study Council	2	3 days	23
Council on Chiropractic Education	2	4 days	2

Source: California Postsecondary Education Commission.

bined they accredit more than twice the number of California private institutions accredited by the Association of Independent Schools and Colleges, and they accredit slightly more than half the private institutions accredited by the National Association of Trade and Technical Schools.

A number of the nine agencies have standards for assessing the financial health of their institutions. Several have fairly demanding financial reporting requirements, but some have neither standards nor a demanding reporting procedure. The Postsecondary Education Commission asked the agencies if they routinely require an audited financial report of their institutions at times of initial accreditation, renewal of accreditation, for annual reports to the commission, and/or at other times the commission may designate. The responses varied, as shown in Display 8 on page 21.

The requirement of an audited financial report in itself may be a strong indication, but certainly not a sufficient guarantee, that an accrediting association is adequately monitoring the financial health of its institutions. A combination of at least three elements in the area of financial accounting and reporting is necessary to provide responsible oversight of this aspect of institutional life:

1. An audited financial statement at the time of initial accreditation and at each renewal as well as at regular intervals (not less often than biennially) between accreditation visits;
2. Published criteria for judging the financial health of an institution; and
3. A procedure for more closely monitoring and working with a financially weak institution.

To a large extent, the American Association of Bible Colleges exemplifies these characteristics. It requires audited financial statements (except for its annual reports), it includes general criteria on financial health among its guidelines, and it has a published procedure for monitoring marginal institutions. In its *Manual on Procedures, Criteria, and*

DISPLAY 7 *Adverse Actions Taken During the Most Recent Year (Fall 1988)*

	In the Nation or Region			In California		
Association	Total Number of Institutions	Total Adverse Actions	Number of Institutions per Adverse Action	California Institutions	Total Adverse Actions in California	Number of Institutions per Adverse Action
National Accrediting Commission of Cosmetology Arts and Sciences	1,802	15	120	230	5	46
National Association of Trade and Technical Schools	1,252	38	33	223	10	22
Association of Independent Colleges and Schools	1,140	16	71	57	2	9
Accrediting Council for Continuing Education and Training	1,367	10	137	160	0	160*
Accrediting Commission for Community and Junior Colleges, WASC	148	4	37	136	3	45
Accrediting Commission for Senior Colleges and Universities, WASC	140	11	12	132	9	15
American Association of Bible Colleges	87	7	12	6	0	6*
National Home Study Council	70	13	31	14	4	4
Council on Chiropractic Education	15	1	15	5	1	5

Average number of institutions per adverse action region wide = 41

Average number of institutions per adverse action in California = 26

* These numbers are provided only for comparative purposes. They would be correct if the Commissions had each taken *one* adverse action during the year.

Source: California Postsecondary Education Commission.

Policies, the association provides detailed guidelines on business and financial administration that cover ten topics such as the organization of business functions, internal control, fund accounting, management of investments, and budget (including six types of budget data that should be provided to the association). These financial health criteria are part of 11 criteria that the association uses for gathering evidence on the stability of the accredited institutions. They are used to examine "stability in financial resources and management practices," and "budget patterns" (1988, p. 11).

Under a section of its manual titled "Maintaining Membership Standards," the association provides the following procedure for monitoring a marginal institution:

> Institutions which evidence weakness in one or more areas of financial stability will receive letters of concern from the AABC. A written response declaring the institution's financial progress or regression is to be submitted to the Review Committee prior to its next meeting. Deteriorating conditions after the initial letter of concern and institutional response could lead to any or all of the following actions:
>
> 1. A request for a detailed recovery plan and progress report;

DISPLAY 8 Accrediting Association Requirements Regarding Audited Financial Statements

Association	Initial Accreditation	Renewal of Accreditation	Annual Report	Other
National Accrediting Commission of Cosmetology Arts and Sciences	No	No	No	No
National Association of Trade and Technical Schools	No	No	No	Yes
Association of Independent Colleges and Schools	Yes	Yes	No	Yes
Accrediting Council for Continuing Education and Training	No	No	No	Yes
Accrediting Commission for Community and Junior Colleges, WASC	Yes	Yes	Yes	No
Accrediting Commission for Senior Colleges and Universities, WASC	Yes	Yes	No	Yes
American Association of Bible Colleges	Yes	Yes	No	Yes
National Home Study Council	Yes	No	No	Yes
Council on Chiropractic Education	Yes	Yes	Yes	Yes

Source: California Postsecondary Education Commission.

2. The assignment of an AABC approved resource person(s) for on-site counsel, at the institution's expense; and
3. The visit of a supplementary evaluation team by the Association.

The procedures and standards of the Accrediting Council for Continuing Education and Training and of the National Association of Trade and Technical Schools offer approaches that contrast sharply with those of the American Association of Bible Colleges. These commissions require no audited reports either as a part of the institutions' accreditation process or as a part of a periodic monitoring requirement, have no published criteria for judging financial health, and no procedure in their guidelines for monitoring weak institutions.

The reason that the State has been and should continue to be interested in the financial condition of private institutions is that a financial report is the single most complete indicator of institutional stability. A deteriorating financial report nearly always precedes abrupt school closures. Many of the negative consequences of this type of closure can be measurably diminished but only if there is positive intervention by the accrediting commission or by the State licensing agency. This intervention would have to occur some time prior to the point that students are put out on the streets with thousands of dollars in federal and State loan obligations and only a partially complete educational program.

Monitoring the financial conditions of private institutions is difficult to do under the best of conditions; detecting a struggling institution on the verge of collapse is even less likely to occur for accrediting associations which have no financial health criteria, and have inadequate guidelines for their institutions and evaluators.

The integrity of institutional programs and administration

Institutional integrity has many dimensions. It is a characteristic the lack of which is often easier to observe than its presence is to measure. In the simplest of definitions it is made up of three components:

1. The institution demonstrates a clarity and preeminence of educational mission in the operations of the institution;
2. The institution represents itself accurately and honestly to its clienteles; and
3. The institution operates its programs ethically and is accountable for every aspect of its programs.

The integrity of an institution's programs and administration can be compromised when it expands too quickly. For example, between 1980 and 1986, Adelphi Institute, accredited by the Association of Independent Schools and Colleges, opened 20 campuses in six states. Eight of these campuses were opened in California within a period of four years (1982-1985). All were accredited immediately. Adelphi filed for bankruptcy in 1987, leaving an estimated $5 million in unpaid tuition refunds owed to students. Yet Adelphi's expansion was accomplished within the procedures and guidelines of the Association of Independent Schools and Colleges, which require a staff verification visit "prior to interim inclusion of a branch within the scope of an institution's grant of accreditation" and a full on-site evaluation within six months of the date of its interim inclusion.

Probity of an institution's dealings with students

The probity of an institution's dealings with potential and enrolled students is a critical factor in the integrity of an institution. This aspect of an institution's operations is especially important for vocational schools.

Integrity is compromised when an institution makes promises on which it cannot deliver. For example, "Jubilee" Truck Driving School (fictitious name) operates a school with five "auxiliary classrooms" in Southern California. Licensed to operate by the California Department of Motor Vehicles, the Southern California site is technically a "branch campus" of a midwestern college accredited by the National Association of Trade and Technical Schools. At the time the California branch was being established, the college, which operates 24 hours a day, was being sued by its students for providing alleged inadequate educational services at the home campus. Nevertheless, the National Association of Trade and Technical Schools allowed the college to open the "branch campus" and five auxiliary classrooms in California in locations as distant as 100 miles from each other with only a preview visit to three of the six locations by a single representative of the association. Thus the school's eligibility for federal and State aid was available from the first day of operation. (In contrast, new institutions are required to operate a minimum of two years before qualifying to participate in future student aid programs.) Its tuition for an eight weeks course is $3,390, and students borrow up to $4,500 in order to complete the five weeks residence portion of the course if they come from the San Joaquin Valley. Approved for student aid in July 1988, the school already had an outstanding loan total of approximately $3,000,000 in less than four months of operation.

"Jubilee" came to the attention of the Postsecondary Education Commission as the result of a student complaint. The Commission's subsequent inquiry determined that a number of dissatisfied students could not find employment, despite the fact that an official school representative had informed one telephone inquirer that their placement rate was 99 percent. The school's accrediting commission places a high value on the integrity of the information, data, and statements provided by an institution in its accreditation process; and it maintains this same standard for information provided to students in the recruiting process: "No overt or implied claim or guarantee of individual employment is made at any time." Although a claim of "99 percent placement" is not exactly a guarantee of employment, it must call into question the integrity of the institution.

The policy of an accrediting body like the National Association of Trade and Technical Schools allowing distant "branch campuses" to begin operation without a full review but with the benefit of accreditation and the eligibility to participate in federal student aid encourages (or at least permits) the proliferation of marginal schools and the exploitation of students. The maintenance of a certain level of probity among accredited institutions depends on the thoroughness of an accreditation agency's procedures, the clarity of its criteria, and the level of monitoring of institutional activity an accrediting commission is able to conduct. Additionally, a well-publicized and efficient student complaint procedure allows responsible agencies to detect serious breeches of institutional integrity. Such does not clearly exist at present but could be more effectively promoted by improved collaboration between accrediting associations and the State's licensing agency.

Wide variation in educational standards

In no division of the guidelines, criteria or standards used by accrediting associations is the wide range of quality more apparent than in the area of educational programs and degrees. As we discuss later in Part 5, some associations which accredit degree-granting institutions rely almost entirely on the state's licensing agency to set the standards and monitor the quality of those degree programs.

Among those associations that do provide degree program standards, the variation is extreme. One association -- the WASC senior commission -- provides extensive details regarding the objectives, structure and content of degrees at both the undergraduate and graduate levels, while the Accrediting Commission of the Home Study Council provides general guidelines applicable to both undergraduate and graduate programs.

Display 9 on page 24 compares just one of several subsections of the educational program requirements, the general education or core curriculum requirement. For both accrediting associations, the portion of the standard on educational program is abstracted from a longer list of items, but care was given in the effort to extract all each association had to say on this limited topic.

The section from the WASC standard is clearly more comprehensive, more specific, and provides a rationale for the requirement of general education within a particular level of degree -- the bachelor's degree. (The senior commission does not accredit institutions offering the two-year undergraduate degree.)

The NHSC guideline essentially instructs an institution to "identify and describe" what is "necessary to meet the requirement for each degree" without requiring any particular amount or rationale for its inclusion in the degree program. Apparently any amount of core curriculum at any level would be acceptable.

Summary

The variations among accrediting association standards and procedures cited here are only a sample of the areas of important differences. Additional examples could be provided in the areas of governance, graduation requirements, evidence of quality in curriculum, and faculty qualifications. The point to be drawn is that in the State's full reliance on accreditation it is depending on a group of nongovernmental agencies with a wide range of standards and various levels of reliability to carry out State constitutional responsibilities. There is no single point of accountability. At times these responsibilities are conducted with great care and effectiveness; at other times serious problems have arisen. When accrediting agencies are lax in their oversight, tremendous harm can occur because so much responsibility has been delegated to them.

DISPLAY 9 Standards on General Education of the Accrediting Commission for Senior Colleges and Universities (WASC) and the National Home Study Council

Accrediting Commission for Senior Colleges and Universities, WASC

Standard 4.B Undergraduate Programs

The undergraduate program is designed to give students a substantial, coherent, and articulated exposure to the major, broad domains of higher education.

With a few exceptions, Bachelor's degree programs have a tripartite structure: the General Education segment requires students to master enabling skills for autonomous learning and to develop an understanding of the fundamental areas of knowledge; the Major segment requires students to achieve depth in a specific area; and the Electives segment provides the opportunity for students to select diverse exposure to other areas of interest. . . .

4.B.2 Undergraduate studies ensure, among other outcomes: (a) competence in written and oral communication; (b) quantitative skills; and (c) the habit of critical analysis of data and argument. In addition to these basic abilities and habits of mind, goals also include an appreciation of cultural diversity. . . .

4.B.4 The general education segment of the undergraduate program is based on a rationale that is clearly articulated, informs the design of all courses, and provides the criteria by which the appropriateness of each course to the general education segment is evaluated.

4.B.5 In setting the pattern for general education, an institution specifies the minimum number of general education units to be required for *all* undergraduate students working toward any Bachelor's degree. Where exceptions are provided to special groups of students (e.g., through double counting), they are clearly stated and justified.

4.B.6 General education is integrated with the entire undergraduate program and includes offerings at the upper-division level.

4.B.7 The general education program ensures adequate breadth for all students pursuing the Bachelor's degree. Offerings are included that focus on the subject matters and methodologies of the humanities, the natural sciences (including mathematics), and the social sciences; the program may also include courses that focus on the interrelationships between subject matters in these three major disciplinary fields.

4.B.8 The institution has clearly articulated policies or the transfer of credit to ensure that students who transfer in with general education course credits meet its own standards for the completion of the general education requirement. Where patterns of transfer from specific community and junior colleges are established, efforts are undertaken to formulate articulation agreements regarding general education.

4.B.9 The equivalent of two years of study toward the baccalaureate degree will be in general education and unrestricted electives even if this extends the basic program. Institutions which offer programs that do not meet this standard bear the burden of proof that the tripartite goals of the baccalaureate are otherwise met.

National Home Study Council

IV. Program Requirements

. . . .

2. **Core Curriculum** Institutions must identify and describe the analytical, communications, and quantitative skills and levels of achievement necessary to meet the requirements for each degree program. Adequate performance measures of student mastery of these skills must exist and students must successfully demonstrate mastery of them as a requirement for earning a degree.

Source: Accrediting Commission for Senior Colleges and Universities (WASC) and the National Home Study Council.

4

State Reliance on Accreditation

CALIFORNIA relies on accreditation to accomplish three basic State purposes:

1. Maintaining a standard of quality, probity and stability among the accredited institutions that is at least equivalent to the State's oversight standards,
2. Determining eligibility for federal and State student aid in cooperation with the United States Department of Education, and
3. Providing a qualitative filter for individuals applying to take professional licensing examinations.

As a rule, the first two of these purposes rely on institutional accreditation and are most directly relevant to this study of the State's reliance on institutional accreditation. Professional licensure, with a few exceptions, generally relies upon programmatic accreditation, and that type of accreditation lies outside the scope of the present investigation.

Exemption from State oversight standards

California relies upon accreditation to fulfill its licensing responsibilities by exempting accredited institutions from detailed oversight by the State Superintendent of Public Instruction and the Superintendent's delegated licensing agency -- the Private Postsecondary Education Division in the State Department of Education:

> Accreditation by a national or applicable regional accrediting agency recognized by the United States Department of Education shall be accepted by the superintendent as evidence of compliance with the minimum standards established by the accrediting or licensing agency and therefore as evidence of compliance with the minimum standards specified in the provisions of this section (*Education Code* Section 94312, letter l).

The rationale for this exemption has never been made explicit, but it seems reasonable to assume that at the time this exemption was first introduced in 1958, the rather comprehensive list of accreditation standards more than adequately covered the minimal State licensing requirements then in existence. As State consumer protection laws have developed in the past decade or so and new accrediting bodies have begun operating, this apparent rationale has required closer examination.

The State *Education Code* exempts both accredited degree-granting institutions and non-degree-granting vocational schools from most statutory requirements made of nonaccredited institutions. Section 94310.1 provides a means whereby degree-granting institutions "accredited by a national accrediting agency recognized by the United States Department of Education, the Western Association of Schools and Colleges, or by the Committee of Bar Examiners of the State of California" are authorized to operate in California without further evaluation of their standards or their compliance with State consumer protection standards. In much the same way, Sections 94311c and 94312 (letter l) exempt vocational schools from similar standards, and Section 94315 provides the same exemption for continuing education entities.

The significance of these exemptions can best be understood by reviewing the scope and purpose of State licensure of postsecondary institutions. In California, this scope and purpose have changed over time, as Appendix E notes. One of the first actions taken by California's Legislature when it was first formed in 1850 was to establish a means for chartering colleges. The Act of 1850, as that landmark statute has become known, required institutional stability and competent governance and granted to the trustees of institutions chartered under this Act the right to grant degrees.

> Any College may be incorporated in this State, according to the provisions of this Act, by the Supreme Court of the State, upon application.

> . . . .
>
> In case the Court shall be satisfied that the proposed College within this State has an endowment of twenty thousand dollars, and that the proposed trustees are capable men, then the Court shall, by an instrument under its seal, declare the College incorporated, . . .
>
> . . . .
>
> Every diploma granted by such trustees shall entitle the possessor to all the immunities which by usage or statute, are allowed to possessors of similar diplomas, granted by any University, College, or Seminary of learning in the United States (California Statutes, Act of 1850).

By the second half of the 1900s, this limited purview of the State had grown to require fiscal accountability, consumer protection, and institutional quality standards but only for nonaccredited institutions. As pointed out earlier, the apparent assumption was that accrediting bodies would promote these standards among their constituencies. The expansion of postsecondary education opportunities after the Second World War had been fueled by a series of G.I. Bills. The veterans' financial aid programs were successful beyond anyone's expectations. Twenty times the expected number of veterans actually took advantage of their educational benefits and new institutions (especially technical schools) flourished (Chambers, 1983, p. 239).

As the federal government took the lead in providing financial aid to returning veterans, so it also took the lead in determining at which institutions it would be acceptable for veterans to spend their federal aid. The Veterans Administration was first given the authority to approve these institutions. In 1952 this VA approval process was assigned to each state and the federal Office of Education was asked to publish a list of "recognized" accrediting agencies and associations that the Commissioner of Education deemed to be "reliable" authorities of quality. This list became the primary basis for determining institutional eligibility for federal funds from that time to the present. California licensing laws appear to have been influenced by these events at the federal level. In 1958 a provision was added to the State's statutes which allowed the Superintendent of Public Instruction, at his discretion, to waive the licensure process for accredited California institutions.

> For the purpose of this subdivision, the Superintendent of Public Instruction may rely on the findings of an accrediting agency generally accepted by the class of institution concerned . . . (1958 Amendments to the *Education Code*, Section 24206[f]).

The *Education Code* was further amended in 1963 to remove entirely the discretionary licensure of accredited private institutions from the Superintendent and replace it with categories for accredited degree-granting (Section 94310.1) and accredited vocational institutions (Section 94311c) which exempted them from all State licensing standards. Currently this law removes about 590 private institutions from State licensing review. As shown in Display 10 on the opposite page, these private institutions are accredited by eight of the accrediting associations discussed in Part Three of this report. (The 230 accredited cosmetology schools accredited by the National Accrediting Commission of Cosmetology Arts and Sciences are not included here because the policy of the State Board of Cosmetology does not exempt them from State review.)

What is the result of this exclusion from State review? It means that the State is unable directly to exercise its responsibilities inherent in the purposes of State licensure. The purposes of State licensure are to provide consumer protection to the many clients of education by

1. Certifying the integrity of the institution's leadership;
2. Determining that the institution is stable;
3. Ensuring the integrity of academic degrees and other educational certification;
4. Maintaining complete and accurate information about the educational institutions operating within its borders;
5. Guaranteeing an expeditious response to student complaints;
6. Providing for equitable tuition refunds;
7. Providing for the maintenance of academic records in case of school closure; and
8. Protecting students against loss of time and money due to institutional fraud or bankruptcy.

DISPLAY 10 Number of Accredited Private Postsecondary Institutions in California Exempted from State Regulations

Accrediting Agency	Degree Granting	Non Degree Granting
Accrediting Commission for Senior Colleges and Universities, WASC	102	0
Accrediting Commission for Community and Junior Colleges, WASC	23	0
American Association of Bible Colleges (AABC))	6	0
Accrediting Council for Continuing Education and Training (ACCET)	0	160
Association of Independent Colleges and Schools (AICS)	12	45
Council on Chiropractic Education (CCE)	5	0
National Association of Trade and Technical Schools (NATTS)	20	203
National Home Study Council (NHSC)	2	12

Source: California Postsecondary Education Commission.

Exemption from State licensure makes sense only when the State can be assured that these purposes are being adequately carried out. Our examination of nine accrediting associations reconfirmed what the literature on accreditation has often stated -- that voluntary accrediting associations, for the most part, incorporate within their standards the concerns reflected in these State licensure objectives, but they neither accept the role of a compliance agency in enforcing the standards or statutes related to these objectives nor do they accept the responsibility for communicating with enforcement agencies any noncompliance they may observe during their institutional assessment processes.

Determining eligibility for federal and State funding

California relies on accreditation in an indirect manner to determine an institution's eligibility to apply for State student aid funds. The State requires an institution to participate in at least two campus-based federal aid programs (e.g., the Perkins Loan Program and the College Work-Study Program) for which accreditation is required by the federal government. If an institution meets this requirement, then it may also be eligible for its students to receive Cal Grants or California Guaranteed Student Loans.

Student financial aid is big business in California. Over the past five years the amount of public funds directed to students through federal and State financial programs has increased from $596 million per year in 1979-80 to $1.5 billion in 1987-88. In addition to making it possible for independent students with little in the way of financial resources to attend college, the easy access to public funds has enabled some profit making institutions, with more attention to profit than to educational integrity, to expand rapidly, as illustrated in Part Three by Adelphi Institute and "Jubilee" Truck Driving School.

During the period in which California was moving to total reliance upon accreditation for State licensure and student aid eligibility purposes, some administrators at the federal level expressed serious doubts about the abilities of the federally-recognized accrediting associations to protect the interests of the public and especially the student consumer. Problems created by the explosive growth of new institutions during the 1950s, '60s, and '70s came to the attention of federal legislators, the Office of Education, the Federal Trade Commission, and the General Accounting Office of the U. S. Comptroller General.

In a 1979 report to Congress titled, *What Assurance Does Office of Education's Eligibility Process Provide?*, the General Accounting Office summarized the problems it found in reviewing accredited institutions participating in federal programs (p. 14):

- Questionable admission and grading policies;
- False or misleading advertisements;
- Failure to provide promised services;
- Failure to offer listed courses;
- Use of refund policies resulting in little or no tuition and dormitory refunds;
- Use of inadequately trained teachers; and
- Lack of information to students on attrition or graduation rates.

In recent years, the number one problem has been the dramatic rise in the default rates on Guaranteed Student Loans. Some institutions have default rates as high as 50 to 60 percent. In California, from 1986 through 1988, the total amount of student loans in default rose from $393 million to $612 million, an increase of more than 28 percent per year (California Student Aid Commission, 1988b).

Currently, the sector of postsecondary education experiencing the highest default rate -- the accredited, profit-making vocational schools -- is one over which the State has relinquished its licensing responsibilities. In 1987, the average student default rate for this group of schools was 33.5 percent with individual schools reaching default rates as high as 81 percent. These schools, which enroll 10 percent of the students eligible to receive financial aid, account for 35 percent of the total dollars in default in California. During the 1987-88 school year, students in these schools received $462 million in public financial aid funds. Included in this total was $104 million in Pell Grants, an amount which represents 38 percent of the total Pell Grant awards given in the State and 66 percent greater than the $65 million in grants awarded community college students in the same year.

The causes of high student default rates have been exhaustively studied. The chief group of student defaulters is comprised of those that have taken out only one loan and have subsequently dropped out of school. In a recent report, the California Student Aid Commission concluded that "institutional admissions policies, instructional practices and performance, the level of support services, and student financial aid packages should all be examined as they relate to student retention and performance -- one of the most powerful predictors of successful repayment on student loans" (1988a, p. 60).

The strong relationship between institutional integrity, educational quality and student achievement is generally accepted. The high correlation between deficiencies in these institutional characteristics and student loan defaulters is becoming increasingly clear, although information on this correlation is difficult to obtain. The chief reason for this difficulty is the minimal level of information sharing among the agencies that have relevant data (the accrediting commissions, the Student Aid Commission, and the U.S. Department of Education) and the fact that the State licensing agency has only a minimal role in the oversight of accredited institutions and collects almost no data on these accredited institutions.

Indicating quality for purposes of professional licensure

The third way in which the State relies on accreditation is related to the State's practice of licensing certain professionals such as medical doctors, nurses, teachers, and attorneys, as well as other occupations where the health and safety of the State's citizens are concerned (e.g., barbers and cosmetologists; marriage, family and child counselors; and opticians). In the Commission's 1984 report on *Public Policy, Accreditation, and State Approval in California*, the Commission cites 22 occupations that list education at an accredited institution as a requisite (or an alternative requisite) for State licensure (pp. 56-58).

In general, this requirement is made by the State licensing board for the occupation concerned. The type of accreditation required (institutional or professional) varies among the licensing boards. For example, although the American Association of Psychology accredits psychology *programs*, the State's Board of Behavioral Science Examiners requires regional accreditation in the licensing of its educational psychologists. For professional licensure in medicine, optometry, podiatry, and pharmacy, the State licensing boards require that applicants must have attended an institution which has professional (or programmatic) accreditation.

Professional accreditation involves in two ways the concern about the State's reliance on institutional accreditation that is the focus of Assembly Concurrent Resolution 78.

- First, in multi-purpose institutions, professional accreditation usually relies on prior institutional accreditation. In this way it is as much dependent as the State on an effective institutional accrediting process. A strong professional program needs the firm grounding of a strong institution, but it is generally beyond the scope of professional accrediting associations to inquire into the administration and financial health of the institution as a whole.
- Second, professional accreditation becomes institution-wide accreditation when it is the only accreditation a single-purpose institution has. The American Association of Bible Colleges, the National Accrediting Commission of Cosmetology Arts and Sciences, and The Council on Chiropractic Education are all examples of programmatic accrediting agencies active in California which are the sole accrediting authority for some single purpose institutions. Our review of these agencies focuses in large part on the question of their expertise in assessing *institutions*.

The professional licensing of individuals always involves a State licensing board and, for that reason, the concerns about the State's reliance on professional accreditation are both somewhat less germane on the one hand yet quite complex and relevant on the other. The concern about the effectiveness of the assessment carried out by an accrediting body may be partially ameliorated by the fact that professional licensure ultimately results in an examination of individuals the objective of which is to determine their fitness to practice their occupation. The accreditations of an institution and its programs are merely one kind of several assessments made on the route to the finishing of a practicing professional. But for some of the occupational areas the relationships of licensing boards and accrediting associations give the appearance of adequate (or even redundant) institutional review when, in fact, the sum of the institutional reviews by the various boards and accrediting agencies may not cover critical aspects of institutional operations.

The relationship between institutional accreditation and professional licensure varies considerably among the licensed occupations and professions. The usual arrangement involves (1) a licensing board that reviews the institution or program, (2) an accreditation agency, and (3) a licensing examination for an individual educated in the accredited institution or program. Two brief examples will illustrate variations from this normal pattern -- licensure for the occupation of cosmetology and certification for teaching in the public schools.

Accreditation and the Board of Cosmetology

The California State Board of Cosmetology does not rely on accreditation at all. Its approval authority of private cosmetology schools and its licensing of cosmetologists are both completely independent of the accreditation provided by the National Accrediting Commission of Cosmetology Arts and Sciences (NACCAS).

The school licensing portion of the Cosmetology Act (Chapter 10, Division 3 of the California Business and Professions Code) specifies various State requirements for operating a school of cosmetology including, for example, minimum student enrollment, school advertising limitations, the length of the cosmetologist course, school equipment, staff, and financial ability. This statute also cross-references private school standards contained in the *Education Code*, Section 94312.

The Board of Cosmetology currently licenses 266 private schools of cosmetology of which 230 are also accredited by NACCAS. Before a school is licensed, the Board conducts inspections to ensure the readiness of the school to train cosmetology students. This inspection is conducted by a single staff member of the Board and reported to the Board for approval. Such inspections are conducted twice a year to check for adherence to the laws and regulations governing the operation of these schools.

Accreditation and the Commission on Teacher Credentialing

The California Commission on Teacher Credentialing (CTC) relies on regional accreditation of higher education institutions as a preliminary indication of quality in its process of program approval. This reliance is explicit and, although opened for re-examination in recent years, this policy has repeatedly been solidly affirmed by the CTC's members.

The CTC's procedures of approving teacher education programs at accredited institutions will certainly change as a result of recent legislation. Senate Bill 148, 1988 requires that CTC adopt "an accreditation framework . . . which shall set forth the policies of the commission regarding the accreditation of preparation programs for teachers and other certificated educators." The language of the legislation clearly expresses the intent that CTC's program approval process, which specifies in some detail curriculum requirements and expected outcomes should be replaced with broader standards that concentrate "on the overall quality of academic and professional preparation, and that holds professional elementary, secondary and postsecondary educators responsible for the quality of preparation."

The process, which may come to be best described as State professional (program) accreditation, will likely be conducted by an in-State accrediting body yet to be selected in much the same way in which most accrediting processes are conducted, using an institutional self-study, and a visit by a team of experts, which results in a team report and recommendation to the Commission for (or against) accreditation.

In the past, these team visits to private as well as public institutions have been funded by the teachers' credentialing fees. Section 44374 of SB 148 allows the Commission "to collect fees from accredited postsecondary education institutions to recover any additional costs resulting from the replacement of program approval with program accreditation . . . ." The current lack of institutional fees to support this function is an outstanding exception to the otherwise universal (but often criticized) practice of basing program review and accreditation on the collection of fees from the institutions involved. Critics of funding accreditation through the assessment of institutional fees believe that the fees create a conflict of interest for the accreditor and thus results in a less rigorous evaluation (Dumke, 1986, p. 104).

5

State Oversight and Non-Governmental Accreditation

California's overreliance on accreditation for oversight

The State of California's short history of relying entirely on accrediting agencies for the oversight of the private institutions within their membership mistakenly casts the issue of oversight as an either/or question: either the State is responsible or the accrediting body. It is one of the ironies of this current policy that many of the accrediting agencies rely explicitly on the State to monitor their institutions' compliance with State laws while California holds the accrediting agencies responsible for maintaining standards that are at least equivalent to these laws.

As a general rule, accrediting commissions require that their member institutions continue to comply with State licensure laws after they are accredited. This approach is based on the observation that in matters subject to State licensure, states differ. Certain associations tend to treat State licensure and accreditation as complementary functions. Among the associations studied for this report, this tends to be more true of the national associations than of the two regional commissions, perhaps because the range of variation is greater for the nation as a whole than it is for the several states within the region covered by the Western Association of Schools and Colleges.

Two examples illustrate this point.

- The American Association of Bible Colleges looks to the states for legal guidelines in the definition of degrees. Its manual states, "Due to the variations in the legal requirements of states and differences in regional practices, considerable latitude is allowed in this matter" and goes on to indicate that while the association is not indifferent to the matter of degree titles and content, it is guided by the laws of the region.
- Like the American Association of Bible Colleges, the Acccrediting Commission of the Association of Independent Colleges and Schools looks to state licensing for oversight of degrees:

> The Commission takes the position that authority for institutions to award degrees resides with the individual states inasmuch as the Commission does not accredit degrees or separate degree programs; it accredits institutions as a whole. Therefore, if an institution is authorized to award a degree, the entire institution and all of its other programs must, to a large extent, support and feed into that degree.

Both associations are quite clear that they regard the states as the appropriate source for legal guidelines for degrees. But California's law is deficient in this regard. In its Private Postsecondary Education Act of 1977, the Legislature expressed its intent to "protect the integrity of degrees and diplomas," yet it relied on the standards of the various accrediting associations to do so, while many of them in turn rely on the State.

In several other sectors of institutional operation, accrediting associations make similar references to state requirements:

- Accrediting Council for Continuing Education and Training: "Cancellation and refund policies comply with applicable Federal and State laws and regulations."
- Association of Independent Colleges and Schools, regarding recruitment: "An institution shall conform to the laws and regulations of each of the states in which it operates, and be sure that each of its representatives is properly licensed or registered as required by the laws of that state."
- National Accrediting Commission of Cosmetology Arts and Sciences: "Ownership and management personnel are in compliance with applicable federal, state, and local laws and regulations which apply to all cosmetology schools under ownership."

- National Association of Trade and Technical Schools, regarding change of ownership: "Documentation from the state on the status of the school after the change of ownership . . ."

These four examples and the discussion about state degree guidelines that preceded them illustrate how accrediting associations build the compliance with state licensing standards into their accreditation standards and procedures. But the determination of whether institutions actually comply with state or federal laws is less easily dealt with. Two problems exist in this regard:

- First, accrediting agencies do not accept the role of enforcing compliance with these laws. While accrediting teams are asked to verify an institution's compliance with state licensing standards, this compliance is often simply assumed to occur in the absence of readily available evidence to the contrary.
- Second, if evidence of significant noncompliance is turned up during the course of a campus visit, the breach of law may become material for an adverse accreditation action involving the institution, but it is not reported to relevant state or federal authorities. For example, a Postsecondary Education Commission staff member observed an accrediting commission's discussion in closed session of a member institution's breach of federal law. The institution appeared to have misrepresented a new off-campus program in order to qualify its students for federal financial aid. Although the accrediting commission was continuing to monitor this development closely and seek additional information, it has no policy to alert the federal authorities to the existence of the noncompliance. This policy of confidentiality maintained by accrediting agencies prohibits the release of such information to public authorities. In some states, court sanctions have reinforced the confidential nature of the institution's self-study for accreditation and the visiting team's report (Bender, 1983, pp. 80-81).

In states like Pennsylvania and Maryland, where the state licensing agency is responsible for monitoring accredited institutions for their compliance with state laws, the policy of confidentiality is less of a problem. But for the State of California, the result of this policy is that where an accrediting agency may find noncompliance with State or federal laws, the State will likely remain unaware of the violation.

As noted in Part Four, accredited cosmetology schools are not exempt from State licensure. In this regard, they are an exception to the rule. The State Board of Cosmetology has a fairly detailed licensing process that entails four different phases for initial licensure. Once licensure is granted and the schools subsequently achieve accreditation, the board continues to conduct inspections semiannually. In this case, the board is in much closer contact with the schools than is the accrediting agency, and the issue of whether the accrediting agency relays State noncompliance matters to the licensing board is moot.

In fields other than cosmetology, however, the State unrealistically relies on accrediting agencies to carry out its own responsibilities. Accrediting agencies are not uniform in their standards and procedures. Some of them on which the State relies in turn rely on the State for certain standards and guidelines, which currently do not exist, and they expect the State to be responsible for monitoring institutional compliance with its own standards. Moreover, their policy of confidentiality prohibits accrediting commissions from relaying information to State oversight officials regarding compliance violations when such violations are discovered.

Other types of State oversight

While California's reliance on accreditation is nearly absolute for degree-granting institutions, for a scattering of accredited institutions the State does maintain some statutory oversight. The activities of these agencies do not cover the universe of private accredited institutions nearly as comprehensively as the accrediting commissions do, but they involve elements that could contribute to a better licensing system for those institutions. They include (1) the State's licensing of California branches of out-of-state, accredited degree-granting institutions; (2) the State's data collection efforts for postsecondary education; (3) institutional licensure as conducted by the Private Postsecondary Education Division of the Department of Education; (4) institutional licensure as conducted by other licensing boards; (5) compliance audits; and

(6) program approval. Display 11 on pages 34-35 summarizes these six types of oversight.

Licensure of accredited out-of-state institutions

Under Section 94310.1b of the *Education Code*, the State conducts a full review (evaluation team visit) of branches of out-of-state accredited colleges and universities operating in California. This recent departure from the State's full reliance on accrediting agencies for such oversight occurred in 1985 because regional accrediting agencies were, at that time, giving less than their full attention to "foreign" branches of the institutions they accredited.

The standards and the process the State uses to review the dozen branches operating in California (five have been reviewed so far) tend to blend elements of both State licensure and non-governmental accreditation. The State's experience with this new procedure is limited at this point and there are complaints from a couple of the institutions about the perceived unnecessary duplication of the review of their branch operations. The process, nevertheless, represents the State's strongest, most thorough assessment process and promises to provide a useful precedent for extending the State's oversight to its own accredited private institutions.

California's data collection efforts for postsecondary education

The State needs information about the number of students enrolled in postsecondary education and the number and types of degrees and other awards granted by postsecondary institutions in order to make informed public policy decisions about the adequacy of services at this level of education. Such information gathering is the most basic and benign form of State monitoring of private institutions, yet with more than 2,600 private postsecondary institutions of all types within its borders, California routinely collects information from only about 6 percent of these private institutions.

Of the approximately 764 accredited private postsecondary institutions in California, the State periodically collects institutional information (enrollments, degrees and other awards granted, tuition) from only 164 (or about 20 percent) of these institutions.

In addition to the 600 accredited institutions from which the State collects little information, even less data on student enrollments or degrees awarded are collected from the 1,850 nonaccredited institutions (of which about 350 are degree-granting institutions).

The State's current policy is fairly clear. Information is sought from those institutions in which the large majority of students is enrolled and which receive the largest amount of public funds. The exception to this is, as Display 12 on page 36 suggests, that little information is available on the accredited, non-degree-granting schools through which $356 million in public funds flow. (Estimates of student enrollments in these latter schools were obtainable only from the nine accrediting associations that cooperated in this study.)

Either of two existing State agencies could serve as the information collection agency for these sectors of postsecondary about which the State now has little information -- the Postsecondary Education Commission or the Private Postsecondary Education Division of the State Department of Education.

- The Postsecondary Education Commission is directed by statute to collect information from public postsecondary institutions (*Education Code*, Section 66902), to collect, conduct and disseminate studies of manpower supply and demand (Section 66903[10]), and to "develop a comprehensive data base insuring comparability of data from diverse sources" (Section 66903[14]). In its role of information clearinghouse, the Commission collects and processes the annual federal survey of institutions known as the Integrated Postsecondary Education Data System (IPEDS). Data forms are collected from degree-granting institutions only (Sectors I and III in Display 12) at State expense. The Commission receives no federal support for collecting and processing the information that it sends to the federal Department of Education.
- Conceivably, the Private Postsecondary Education Division, in its role as the State's oversight agency for private postsecondary institutions, could collect data from those institutions not included in the Postsecondary Education Commission's data base. These would include the 500 accredited non-degree-granting institutions whose 200,000 students are currently receiving $356

DISPLAY 11 Non-Governmental Accreditation Compared with Six Types of State Review of Private

Organizational and Procedural Elements	Nongovernmental Accreditation	1. Out-of-State Institution Licensure (PPED)	2. Postsecondary Data Collection	3. Institutional Licensure (PPED)
State Agency	--	Private Postsecondary Education Division (PPED), State Department of Education	California Postsecondary Education Commission	Private Postsecondary Education Division (PPED), State Department of Education
Source of Mandate	Various voluntary associations	*Education Code* Section 94310.1(b)	*Education Code* Section 66903; private institutions participate voluntarily	*Education Code* Sections 94300 ff
Responsible Board	Appointed by each association; self-perpetuating	None; Superintendent of Public Instruction is responsible, advised by advisory council	Appointed by Governor, Legislature, and the educational segments	None; Superintendent of Public Instruction is responsible, advised by advisory council
Institutional Types	Degree and non-degree granting, public and private	Out-of-State degree-granting public and private regionally accredited	Public degree-granting institutions required; private insts. requested	Private, non-accredited degree and non-degree granting institutions
Relationship to Accreditation	--	Must be accredited by regional accrediting association to operate in California	Both accredited and non-accredited sought, but few non accredited institutions participate	Accredited institutions are exempt from most requirements of the statute
Standards or Criteria	Standards adopted by association	Regulations to be developed by the Superintendent of Public Instruction	Federal Information survey forms (IPEDS) are used for private institutions	Regulations being developed for degree-granting institutions
Institutional Report	Institutional self-study report	Institution's most recent self-study, plus additional data on its California operations	Data requested on institutional characteristics (see list below)	Institutional disclosure report required for all types of non-accredited institutions
Site Visit and Report	Yes; team report	Yes; staff report	No	Yes; staff report
Site Visitors	Team of peer evaluators	Staff; team not required	--	Team appointed by Superintendent of Public Instruction
Scope of Institutional Review	Entire institution, emphases vary by association	Entire institution, financial resources, faculty, curriculum facilities, educational outcomes	IPEDS components: • Institutional data • Enrollments • Completions • Faculty • Finances • Libraries	Entire institution
Term Between Reviews	Longest for most associations is five years	Maximum of five years	Annual: institution data, completions, enrollment, and finances; biennial: ethnicity, faculty	Three to five years
Adverse Actions	Denial Probation Termination	Denial Termination	None	Denial Probation Termination
Source of Funds	Institutional fees	Institutional fees	State General Fund	Institutional fees
Availability of Report on Institution	Generally confidential but may be released by institution itself	Available to public	Available to public	Available to public

Source: California Postsecondary Education Commission.

4. Institutional Other than Private Postsecondary Education Division			**5. Compliance Audits**	**6. Program Approval or "Accreditation"**
Motor Vehicles	**Acupuncture**	**Cosmetology**		
Department of Motor Vehicles	Department of Consumer Affairs; Board of Medical Quality Assurance; Acupuncture Examining Committee	Department of Consumer Affairs Board of Cosmetology	California Student Aid Commission	Commission on Teacher Credentialing
Vehicle Code Sections 320, 1670, and 1671	*Business and Professions Code* Section 4929	*Business and Professions Code* Section 7300	*Administrative Code* Section 30116 (34CFR682410c2)	*Education Code* Section 44300
None	Committee appointed by Governor (nine members), Senate Rules (one member), and Assembly Speaker (one)	Board appointed by Governor (five members), Senate Rules (one member), and Assembly Speaker (one)	Appointed by Governor	Appointed by Governor
Private, non-degree; most are accredited	Private degree and non-degree institutions first licensed by PPED	Private, non-degree granting institutions	Public and private degree- and non-degree granting accredited institutions	Public and private four-year degree-granting regionally accredited insts.
Institutional licensure bears no relationship to accreditation status	Institutional licensure (known as "school approval") bears no relationship to accreditation status	Institutional licensure bears no relationship to accreditation status	Accreditation is required by the federal Department of Education	Regional accreditation is a prerequisite under *Education Code* Section 44225
Various application forms	Standards adopted by Committee; placed in regulation. *California Code of Regulations*, Section 1399.436b	Standards adopted by Board and placed in regulation, *California Administrative Code* Title 16, Chapter 9	Must maintain federal eligibility requirements, including accreditation	Standards adopted by the Commission (generally not in formal regulations)
Various application forms, owner's background, Equipment Surety Bond of $2,000	Various application forms	Various application forms	None	Program report
Yes; staff report	Yes; team completes various forms	Yes; inspection checklist with staff comments	Yes; staff report	Yes; team report
One staff member	Team of one staff and three subcommittee members	One staff member	Usually one staff member, occasional joint visit with cooperating agency	Team of peer evaluators (professors, school teachers, and adminstrators)
Equipment, classrooms, advertising, student records	Administrative files, student files, faculty, financial condition, curriculum	Equipment, facilities, curriculum, textbooks, financial condition	Financial aid records Student files Consumer information	Program components: • Program development and coherence • Admission requirements • Institutional resources • Student assessment • Faculty • Curriculum
License renewed annually; no renewal visit	Approved status is perpetual; institution is required to report new programs and faculty	Institutions must renew their license annually. Staff makes two site inspections annually	One to five years; depends on volume of aid, default rate, complaints	Five to six years
Denial Revocation	Denial Termination	--	Limitation Suspension Termination Fines	Denial Conditional approval Probation Termination
Institutional fees	Occupational licensing fees, institution approval fees	Occupational and institutional licensing fees	Federal administrative funds from Loan Reserve	Teacher credential fees
Available to public	Available to public (except financial report)	Available to public	Available to public 30 days after mailing to institution	Available to public

DISPLAY 12 Student Enrollments, Expenditure of Public Funds, and Level of Available Information for Public and Private Postsecondary Institutions

Sector	Number of Institutions	Enrollments	Public Funds (000s)	Information Level
1. Accredited degree-granting	313	1,750,000	$3,068,119* 1,340,639**	High
2. Accredited non-degree-granting	451	200,000	356,483**	Very low
3. Non-accredited degree-granting	350	est. 175,000	0	Low
4. Non-accredited non-degree-granting	1,500	est. 150,000	0	Very low

* General Fund.
** Student Aid Fund.

Source: California Postsecondary Education Commission.

million in financial aid. These accredited institutions are among those exempted from the Division's oversight, however, and thus the Division currently has neither the resources nor the authority to collect this information.

In view of the considerable investment of public funds in Sector II of Display 12, it is reasonable to assume that the collection of data about these institutions would serve an important public policy function by enabling the Legislature and Governor to be knowledgeable about the productivity of the institutions and to better utilize their resources. At present, neither agency has the resources to add this task to its workload.

Institutional licensing through the Private Postsecondary Education Division

The third type of State oversight listed in Display 11 is the institutional licensing function conducted by the Private Postsecondary Education Division. All new private postsecondary institutions not specifically exempted by the *Education Code* are required to secure State authorization or approval from the Division before they begin offering instruction. The Education Code permits a wide range of nonaccredited degree-granting and nondegree-granting institutions to operate under this statutory provision subject to periodic review by the Division. Currently, some 160 degree-granting colleges and universities and 1,700 vocational schools come under its direct review.

Non-governmental accrediting agencies require that institutions applying to become candidates for accreditation (the first step in the accreditation process) first obtain a State license (authorization, approval) to operate and operate continuously for a minimum of two years or until they have graduated their first class, whichever is the longer period of time.

The institutional licensing process for degree-granting institutions bears some apparent similarities to the process used by non-governmental accrediting bodies in such procedural elements as the use of standards (termed "regulations" in State statute), an institutional report, a site visit, and a report on the assessment of the institution based on the team's visit. These appearances are deceptive.

The differences between non-governmental accreditation and the State's licensure of degree-granting institutions are profound, and it is a serious error to confuse one with the other. The comparisons in Display 13 on page 38 illustrate the number and degree of dissimilarities between the two institutional assessment processes.

Institutional licensure through other State agencies

The fourth type of State oversight -- institutional licensure by State agencies other than the Private Postsecondary Education Division -- is carried out by several of the occupational licensing boards.

DISPLAY 13 Differences Between Non-Governmental Accreditation and California State Licensure

Non-Governmental Accreditation	State Licensure
• Primary purpose is to maintain and improve institutional quality.	• Primary purpose is to ensure a base level of institutional integrity and consumer protection
• Accredited status is voluntary, although it is a necessary precondition for an institution to become eligible for federal student aid funds.	• Licensure is mandated by statute in order for an institution to operate.
• Decisions are made by a private commission with some public members.	• Decisions are made by an individual executive staff member accountable to the State Superintendent of Public Instruction.
• The external evaluation team is composed of peer evaluators from other accredited institutions.	• An external evaluation team is composed of a Division staff member (who chairs the team) and several peer evaluators (approval) or one peer evaluator and a staff member of the California Postsecondary Education Commission (authorization)
• Site visit reports are written by the team members.	• Site visit reports are written by the Division staff member who chairs the team.

Source: California Postsecondary Education Commission.

The relevance this information holds for the issues raised by ACR 78, is that, unlike the relationship of accreditation to the licensure administered by the Division, the oversight of these licensing boards is not relinquished when institutions under their purview become accredited. The Board of Cosmetology was cited as an example of this relationship in Part Four. The Board of Barbering, the Board of Vocational Nurse and Psychiatric Technician Examiners, the Acupuncture Examining Committee and the Department of Motor Vehicles (through December 1988) are additional examples of State licensing boards that inspect, license, and monitor schools in which their occupational skills are taught regardless of whether the schools are accredited.

Compliance audits

The California Student Aid Commission -- the State's guarantee agency for federal and State student financial aid -- is an example of the fifth type of oversight. Its enforcement responsibilities require it to audit 771 accredited postsecondary institutions (635 of which are private institutions) "on a regular basis, except that institutions that fall within the top 10 percent of loan volume are reviewed every two years" (California Student Aid Commission). The on-site "organizational evaluation" conducted by a single Student Aid Commission staff auditor includes an examination and analysis of the organization and management of academic activity, financial aid administration, accounting and financial disbursement systems, and placement activity for a school by the review of the following (with respect to financial aid administration only):

Student financial aid files;
Admission files;
Attendance records;
Transcripts, i.e., grades, units completed,
  and units enrolled;
Student ledger accounts/tuition cards;
School catalog, consumer information;
Brochure;
Placement records and statistics;
Satisfactory progress policies;
Previous audit report;

Profit and loss statement;
Transaction dates;
Needs analysis calculations; and
Accreditation reports.

State program approval

The program approval responsibilities (soon to become program "accreditation") of the California Commission on Teacher Credentialing illustrates the sixth type of State oversight detailed in Display 11. Recently modified in Senate Bill 148, this process will become even more like non-governmental program accreditation than it is now. While this function is not an institutional evaluation process, it is included here in Display 11 in order to compare a number of its elements with those of State institutional licensure and voluntary accreditation. In many respects, the CTC's process, as it currently operates, parallels the non-governmental program accreditation process and is more akin to non-governmental professional accreditation than to State licensure. It differs from non-governmental accreditation chiefly in the fact that it is based upon State statutes rather than upon the authority of a voluntary association. Its scope is limited to an assessment of teacher preparation programs rather than the entire institution. Institutional accreditation by the senior commission of WASC is a prerequisite for applying for review by the Commission on Teacher Credentialing, and this characteristic is also similar to most non-governmental professional accreditation.

Lessons for the future

What can be learned from this comparison of types of State agency oversight of private institutions? Even a cursory glance at Display 11 shows that there are many ways in which State oversight is implemented. Less apparent is the fact that there are several levels of rigor or thoroughness (although this might be partially inferred from information such as whether or not there is use of a visiting team or periodic revisits by representatives of an agency).

These levels or types of oversight reflect different purposes and different public (or public policy) needs: in one case, the Postsecondary Education Commission's information collection process provides information for public policy decisions; in other cases, the Board of Cosmetology licensing helps to ensure the public's health and safety. The Student Aid Commission's compliance audit promotes institutional accountability in the use of public funds.

The information in Display 11 also shows that there are various relationships to non-governmental accreditation: Program approval by the Commission on Teacher Credentialing has institutional accreditation as a prerequisite; compliance audits by the Student Aid Commission deal only with accredited institutions because of a federal requirement; the licensing boards' procedures in acupuncture and cosmetology are independent of accreditation; and the information gathering efforts of the Postsecondary Education Commission cover only some accredited institutions -- those that award degrees.

Most important, each of these agency processes exists to provide information for public policy purposes; in some cases, to ensure the public's health and safety; and to see that public funds are responsibly spent. Clearly, the direction in which state oversight of private institutions has been evolving elsewhere in the nation has been toward increasing regulation for these purposes. The increase in California's regulation of nonaccredited institutions has resulted in part from this national regulatory environment, but California's laws regarding accredited institutions have not been similarly affected. What is now needed is a more coherent philosophy of State oversight of private postsecondary education institutions -- both accredited and nonaccredited.

To provide a basis for this philosophy, at least seven premises can be derived from the State's experience in relying on accreditation to fulfill its oversight responsibilities:

1. The licensing of private postsecondary institutions is an appropriate expression of the constitutional goal and of the authority of the State.

2. The State has a responsibility for determining whether postsecondary institutions have a governance structure that will ensure reasonable

review of educational policies and outcomes and will provide for continuity of the institution.

3. Ensuring the integrity of degrees, diplomas and certificates is a State responsibility which ought to involve the voluntary participation of relevant professional and vocational peer groups.

4. Within its role in licensing an institution, the State has the authority to determine whether an institution is financially stable both at the time of its initial licensing and on an ongoing basis.

5. The protection of students' rights as consumers of education is a fundamental responsibility of the State.

6. Licensing institutions on the basis of minimum standards of quality is consonant with the State's general authority; promoting quality improvement in private institutions as a primary organizational function is more appropriately left to a voluntary, non-governmental association.

7. Providing comprehensive information to the State about the purposes, programs, students and degrees or diplomas awarded ought to be a requirement that accompanies the granting of a license to operate an institution.

The Commission expects to use these premises in its continuing analyses of the relation of non-governmental accreditation to State oversight and in developing specific recommendations for California's future reliance on accrediting agencies.

Appendix A

Recommendations of the California Postsecondary Education Commission Regarding Accreditation and State Approval, 1984

RECOMMENDATION 1: Because non-governmental accreditation serves important functions that should be protected and preserved, accreditation should remain a non-governmental activity, and the State should not initiate activities designed to replace or inhibit its role in promoting educational quality.

RECOMMENDATION 2: California should continue to utilize the two separate processes of non-governmental accreditation and State approval for independent and private institutions as they perform different yet complementary functions. Efforts should be made to strengthen both processes wherever possible.

RECOMMENDATION 3: The State-approval process for degree-granting institutions should continue to be programmatic approval, but it should be revised to stipulate that an institution cannot advertise itself as having State approval status until all of its degree programs have been qualitatively reviewed and approved by the State's oversight agency.

RECOMMENDATION 4: To provide an opportunity for an institution with institution-wide programmatic approval to add a new program on a tentative basis, after operating with approval status for at least two years, it should be eligible to offer a maximum of one unapproved program for a period of no longer than three years. After that period, the program should be expected to achieve State approval or be eliminated.

RECOMMENDATION 5: The State should continue to rely on accrediting associations to exercise primary responsibility for the oversight of accredited independent and private institutions. Nonetheless, when available evidence suggests a reasonable probability of non-compliance by an accredited institution with State standards for approval, the State oversight agency should work with the accrediting association to correct the situation. The State agency should provide the accrediting association with all available evidence and request the association to provide a written response to the specific issues raised by the State. As a last resort, however, if the issues still remain unresolved after the accrediting association has had a reasonable period of time to work with the institution, the State should have the authority, after exhausting all administrative procedures necessary to insure the involved institution due process of law, to rescind the license of an accredited institution which is not in compliance with State standards.

RECOMMENDATION 6: The Senior and Community College Commissions of the Western Association of Schools and Colleges should review their current guidelines for tuition refund as well as the "Policy Guidelines for Refund of Student Charges" drafted by the National Association of College and University Business Officers, to determine if more specific guidelines on this issue should be implemented by the two commissions.

RECOMMENDATION 7: The State criteria utilized to determine institutional eligibility for participation in State-funded undergraduate and graduate student assistance programs should be examined by the Student Aid Commission during the next year. This examination should consider the impact of modifying the criteria regarding institutional eligibility so that institutions qualitatively reviewed and approved by non-governmental accrediting associations or having institution-wide programmatic approval from the State oversight agency (as provided in Recommendation 3 above) are eligible for participation in the State programs if they meet all other State requirements. In preparing this review, the Student Aid Commission should include an analysis of the total cost for any changes in institutional eligibility for participation in State financial aid programs, with this information submitted to the Legislature as appropriate.

RECOMMENDATION 8: The expertise of specialized accrediting associations should continue to be used in the health professions as a means of screening out potential practitioners who have not met specific predetermined standards. In all other professions, graduation from an institution with regional accreditation or institution-wide programmatic approval by the State (as proposed in Recommendation 3) should continue to be required as a means of identifying individuals who have potentially met the requirements for licensure.

RECOMMENDATION 9: The Behavioral Science Examiners Board and the Geologist/Geophysicists Board should review their current practices that require graduation from a regionally accredited institution as a requirement for individuals to sit for licensure examinations in educational psychology and geology, respectively. Consideration should be given to the utilization of institution-wide programmatic approval by the State as an additional means to identify institutions with adequate educational programs.

RECOMMENDATION 10: Two important principles of the current WASC procedures for the review of California-based operations of out-of-state accredited institutions should be continued: (1) the utilization of WASC standards as the basis for accreditation, with (2) the final accreditation decision made by the Senior Commission of WASC. These institutions should also continue to have the option for either authorization or approval by the State oversight agency as an alternative for WASC accreditation.

RECOMMENDATION 11: The Committee of Bar Examiners should establish a separate committee with the responsibility for accrediting law schools, with the composition of this committee similar to that of the American Bar Association, including significant representation from accredited institutions. In addition, the Committee should develop and implement an appeals process for institutions similar to that maintained by the American Bar Association.

RECOMMENDATION 12: The Senior Commission of WASC should continue to review its current process for the selection of commissioners and examine the processes used by other regional accrediting associations to determine if there is a method of more directly involving the member institutions and the various constituencies of accreditation in the selection of commissioners.

RECOMMENDATION 13: The systemwide offices of the three public segments should review their policies regarding the role of accreditation, with special attention to those specialized accrediting associations with standards and criteria for membership that are so specific and intrusive as to limit campus authority over curriculum and resource allocation. Campuses should be encouraged to take the lead within specialized accrediting associations to modify those standards and practices which are particularly intrusive into campus authority. If these efforts are unsuccessful, campuses should consider terminating their membership in these associations until such standards are modified, and students and the public should be informed about the reasons for this voluntary termination.

RECOMMENDATION 14: The systemwide offices and the campuses of the three public segments should give special attention to the need for campuswide coordination of accrediting activities to facilitate cooperation, communication, and common planning for phased or joint evaluations by institutional and specialized accrediting associations in harmony with the institutions' own planning and evaluation cycles.

Appendix B

Assembly Concurrent Resolution 78 (1988, Hughes)

RESOLUTION CHAPTER 22

Assembly Concurrent Resolution No. 78—Relative to nongovernmental associations for accreditation of postsecondary educational institutions.

[Filed with Secretary of State April 6, 1988.]

LEGISLATIVE COUNSEL'S DIGEST

ACR 78, Hughes. Private educational accrediting associations.

This measure would request that the California Postsecondary Education Commission conduct a study of the operations and procedures of accrediting associations which accredit postsecondary educational institutions, as specified.

This measure would also request that the Executive Director of the California Postsecondary Education Commission establish an advisory committee, as specified, to assist in the identification of issues to be included in the study, and would provide that the results of the study be transmitted to the education and budget committees of each house of the Legislature by February 15, 1989.

WHEREAS, The California state government has increasingly turned to nongovernmental accrediting associations for assistance in assuring and increasing the quality of educational programs offered by public, independent, and private postsecondary institutions; and

WHEREAS, Nongovernmental accrediting associations have been given increasing responsibility to monitor independent and private institutions to assure their compliance with minimum standards for consumer protection, educational quality, and financial stability; and

WHEREAS, California relies upon accrediting associations to identify institutions eligible to participate in state and federally funded student assistance programs; and

WHEREAS, California policy relies upon accrediting associations to identify both (1) institutions which offer professional training programs of sufficient quality that they can be relied on in the licensure of practitioners and (2) teacher education programs which are considered to be of sufficient quality to merit review by the State Commission on Teacher Credentialing; and

WHEREAS, Accrediting associations are expected to adopt policies and practices which are responsive to the public interest and consistent with public policy; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the California Postsecondary Education Commission is requested to conduct a study of the operations and procedures of accrediting associations which accredit postsecondary institutions operating pursuant to either Section 94310.1 or subdivision (c) of Section 94311 of the Education Code. This study shall consider, but not be limited to, the following issues:

(1) What are the purposes of nongovernmental accreditation, as stated by each accrediting association.

(2) What are the state's responsibilities in the licensure and oversight of postsecondary institutions which operate in California? Which, if any, of these responsibilities has been delegated to nongovernmental accreditation associations? Should the state assume any or all of the responsibilities currently delegated to nongovernmental accrediting associations?

(3) What criteria should be used by the state to assess the capacity of the accrediting associations to act in the public interest and consistent with public policy?

(4) Is the current level of state monitoring of nongovernmental accrediting associations effective, and if not, how should the monitoring be strengthened?

(5) What is the process by which members of the accrediting commission are selected? Does this process provide a mechanism for the involvement of faculty, administrators, and public representatives in the selection of accreditation commissioners?

(6) How are the operations of each accrediting association funded?

(7) What issues are considered during the public sessions of the meetings of each accreditation association? What issues are considered during the executive sessions of these meetings? To what extent is the public business of the accrediting association conducted in public; and be it further

Resolved, That the Executive Director of the California Postsecondary Education Commission, in the preparation of this study, shall establish an advisory committee composed of, but not necessarily limited to, representatives of California institutions accredited by the National Home Study Council, by the National Association of Trade and Technical Schools, by the Association of Independent Schools and Colleges, and by the Western Association of Schools and Colleges. The advisory committee shall assist in the identification of issues to be included in this study and shall have the opportunity to review and comment on a preliminary draft of the commission's report; and be it further

Resolved, That the California Postsecondary Education Commission shall complete the study prior to February 15, 1989, and transmit the results to the education policy committee of the Assembly and of the Senate and the budget committee of the Assembly and of the Senate; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the California Postsecondary Education Commission.

Appendix C

Federal Criteria and Procedures for Recognition of Nationally Recognized Accrediting Agencies and Associations

The criteria and procedures for recognizing accrediting bodies were published in Title 34 of the Code of Federal Regulations on August 20, 1974, as follows:

Part 603 — Secretary's Recognition Procedures for National Accrediting Bodies and State Agencies

Subpart A — Criteria for Nationally Recognized Accrediting Agencies and Associations

Sec.
603.1 Scope.
603.2 Definitions.
603.3 Publication of list.
603.4 Inclusion on list.
603.5 Initial recognition: renewal of recognition.
603.6 Criteria.

Authority: (20 U.S.C. 682(b), 1058(2)(iv), 1061(2)(iv), 1085(b), 1085(c), 1085(f), 1088(a)(2), 1088(b)(4), 1088(c), 1141(a), 1401(11)(E), 2002(4), 3207(2)(E), 2461(21), 3381(e)); (12 U.S.C. 1749c(b)); (42 U.S.C. 293a(b)(1), 294j(2), 294s(a), 294z(a), 295-(2)(c), 295c(a)(2), 295c(b)(2), 295(b)(1) and (2), 295-(f)-2(b), 295g-8(g)(2), 295(c)(2)(B), 295h-4(2)(D), 297-1, 908(d)(2), 3791(17)); (8 U.S.C. 1101(a)(15)(F), 1182(a)(32), 1182(j)(1)); (10 U.S.C. 213(d)); (25 U.S.C. 1801(5)); (38 U.S.C. 1652(g), 1701(11), 1775(a), 5073(b)(1)(D)); (15 U.S.C. 1352(c)); (44 U.S.C. 1916).

Subpart A — Criteria for Nationally Recognized Accrediting Agencies and Associations

§603.1 Scope

Accreditation of institutions or programs of institutions by agencies or associations nationally recognized by the U.S. Secretary of Education is a prerequisite to the eligibility for Federal financial assistance of institutions and of the students attending such institutions under a wide variety of federally supported programs. The recognition of such agencies is reflected in lists published by the Secretary in the FEDERAL REGISTER. Inclusion on such list is dependent upon the Secretary's finding that any such recognized agency or association is a reliable authority as to the quality of training offered. The Secretary's recognition is granted and the agency or association is included on the list only when it meets the criteria established by the Secretary and set forth in §603.6 of this part.
(20 U.S.C. 1141(a))

§603.2 Definitions.

"Accrediting" means the process whereby an agency or association grants public recognition to a school, institute, college, university, or specialized program of study which meets certain established qualifications and educational standards, as determined through initial and periodic evaluations. The essential purpose of the accreditation process is to provide a professional judgment as to the quality of the educational institution or program(s) offered, and to encourage continual improvement thereof;

"Adverse accrediting action" means denial of accreditation or preaccreditation status or the withdrawal of accreditation or preaccreditation status;

"Agency or association" means a corporation, association, or other legal entity or unit thereof which has the principal responsibility for carrying out the accrediting function;

"Institutional accreditation" applies to the total institution and signifies that the institution as a whole is achieving its educational objectives satisfactorily;

"Regional" means the conduct of institutional accreditation in three or more States;

"Representatives of the public" means representatives who are laymen in the sense that they are not educators in, or members of, the profession for which the students are being prepared, nor in any way are directly related to the institutions or programs being evaluated.
(20 U.S.C. 1141(a))

§603.3 Publication of list.

Periodically the U.S. Secretary of Education will publish a list in the FEDERAL REGISTER of the accrediting agencies and associations which he determines to be reliable authorities as to the quality of training offered by educational institutions or programs, either in a geographical area or in a specialized field. The general scope of the recognition granted to each of the listed accrediting bodies will also be listed.
(20 U.S.C. 1141(a))

§603.4 Inclusion on list.

Any accrediting agency or association which desires to be listed by the Secretary as meeting the criteria set forth in §603.6 should apply in writing to the Chief, Agency

Evaluation Staff. Higher Education Management Services. Office of Postsecondary Education. Department of Education. Washington. D.C. 20202.
(20 U.S.C 1141(a))

§603.5 Initial recognition and renewal of recognition.

(a) For initial recognition and for renewal of recognition. the accrediting agency or association will furnish information establishing its compliance with the criteria set forth in §603.6. This information may be supplemented by personal interviews or by review of the agency's facilities. records. personnel qualifications. and administrative management. Each agency listed will be reevaluated by the Secretary at his discretion. but at least once every four years. No adverse decision will become final without affording opportunity for a hearing.

(b) In view of the criteria set forth in §603.6. it is unlikely that more than one association or agency will qualify for recognition (1) in a defined geographical area of jurisdiction or (2) in a defined field of program specialization within secondary or postsecondary education. If two or more separate organizations in a defined field do seek recognition. they will both be expected to demonstrate need for their activities and show that they collaborate closely so that their accrediting activities do not unduly disrupt the affected institution or program.
(20 U.S.C. 1141(a))

§603.6 Criteria.

In requesting designation by the U.S. Secretary of Education as a nationally recognized accrediting agency or association. an accrediting agency or association must show:

(a) Functional aspects. Its functional aspects will be demonstrated by:

(1) Its scope of operations:

(i) The agency or association is national or regional in its scope of operations.

(ii) The agency or association clearly defines in its charter. by-laws or accrediting standards the scope of its activities. including the geographical area and the types and levels of institutions or programs covered.

(2) Its organization:

(i) The agency or association has the administrative personnel and procedures to carry out its operations in a timely and effective manner.

(ii) The agency or association defines its fiscal needs. manages its expenditures. and has adequate financial resources to carry out its operations. as shown by an externally audited financial statement.

(iii) The agency's or association's fees. if any. for the accreditation process do not exceed the reasonable cost of sustaining and improving the process.

(iv) The agency or association uses competent and knowledgeable persons. qualified by experience and training. and selects such persons in accordance with nondiscriminatory practices:

(A) to participate on visiting evaluation teams:

(B) to engage in consultative services for the evaluation and accreditation process: and

(C) to serve on policy and decision-making bodies.

(v) The agency or association includes on each visiting evaluation team at least one person who is not a member of its policy or decision-making body or its administrative staff.

(3) Its procedures:

(i) The agency or association maintains clear definitions of each level of accreditation status and has clearly written procedures for granting. denying. reaffirming. revoking. and reinstating such accredited statuses.

(ii) The agency or association. if it has developed a preaccreditation status. provides for the application of criteria and procedures that are related in an appropriate manner to those employed for accreditation.

(iii) The agency or association requires. as an integral part of its accrediting process. institutional or program self-analysis and an on-site review by a visiting team.

(A) The self-analysis shall be a qualitative assessment of the strengths and limitations of the institution or program. including the achievement of institutional or program objectives. and should involve a representative portion of the institution's administrative staff. teaching faculty. students. governing body. and other appropriate constituencies.

(B) The agency or association provides written and consultative guidance to the institution or program and to the visiting team.

(b) Responsibility. Its responsibility will be demonstrated by the way in which —

(1) Its accreditation in the field in which it operates serves clearly identified needs. as follows:

(i) The agency's or association's accreditation program takes into account the rights. responsibilities, and interests of students, the general public, the academic, professional, or occupational fields involved, and institutions.

- (ii) The agency's or association's purposes and objectives are clearly defined in its charter, by-laws, or accrediting standards.

(2) It is responsive to the public interest, in that:

- (i) The agency or association includes representatives of the public in its policy and decision-making bodies, or in an advisory or consultative capacity that assures attention by the policy and decision-making bodies.
- (ii) The agency or association publishes or otherwise makes publicly available:
  - (A) The standards by which institutions or programs are evaluated;
  - (B) The procedures utilized in arriving at decisions regarding the accreditation status of an institution or program;
  - (C) The current accreditation status of institutions or programs and the date of the next currently scheduled review or reconsideration of accreditation;
  - (D) The names and affiliations of members of its policy and decision-making bodies, and the name(s) of its principal administrative personnel;
  - (E) A description of the ownership, control and type of legal organization of the agency or association.
- (iii) The agency or association provides advance notice of proposed or revised standards to all persons, institutions, and organizations significantly affected by its accrediting process, and provides such persons, institutions and organizations adequate opportunity to comment on such standards prior to their adoption.
- (iv) The agency or association has written procedures for the review of complaints pertaining to institutional or program quality, as these relate to the agency's standards, and demonstrates that such procedures are adequate to provide timely treatment of such complaints in a manner that is fair and equitable to the complainant and to the institution or program.

(3) It assures due process in its accrediting procedures, as demonstrated in part by:

- (i) Affording initial evaluation of the institutions or programs only when the chief executive officer of the institution applies for accreditation of the institution or any of its programs;
- (ii) Providing for adequate discussion during an on-site visit between the visiting team and the faculty, administrative staff, students, and other appropriate persons;
- (iii) Furnishing, as a result of an evaluation visit, a written report to the institution or program commenting on areas of strengths, areas needing improvement, and when appropriate, suggesting means of improvement and including specific areas, if any, where the institution or program may not be in compliance with the agency's standards;
- (iv) Providing the chief executive officer of the institution or program with an opportunity to comment upon the written report and to file supplemental materials pertinent to the facts and conclusions in the written report of the visiting team before the accrediting agency or association takes action on the report;
- (v) Evaluating, when appropriate, the report of the visiting team in the presence of a member of the team, preferably the chairman;
- (vi) Providing for the withdrawal of accreditation only for cause, after review, or when the institution or program does not permit reevaluation, after due notice;
- (vii) Providing the chief executive officer of the institution with a specific statement of reasons for any adverse accrediting action, and notice of the right to appeal such action;
- (viii) Establishing and implementing published rules of procedure regarding appeals which will provide for:
  - (A) No change in the accreditation status of the institution or program pending disposition of an appeal;
  - (B) Right to a hearing before the appeal body;
  - (C) Supplying the chief executive officer of the institution with a written decision of the appeal body, including a statement of specifics.

(4) It has demonstrated capability and willingness to foster ethical practices among the institutions or programs which it accredits, including equitable student tuition refunds and nondiscriminatory practices in admissions and employment.

(5) It maintains a program of evaluation of its educational standards designed to assess their validity and reliability.

(6) It secures sufficient qualitative information regarding the institution or program which shows an on-going program of evaluation of outputs consistent with the educational goals of the institution or program.

(7) It encourages experimental and innovative programs to the extent that these are conceived and implemented in a manner which ensures the quality and integrity of the institution or program.

(8) It accredits only those institutions or programs which meet its published standards, and demonstrates that its standards, policies, and procedures are fairly applied and that its evaluations are conducted and decisions rendered under conditions that assure an impartial and objective judgment.

(9) It reevaluates at reasonable intervals institutions or programs which it has accredited.

(10) It requires that any reference to its accreditation of accredited institutions and programs clearly specifies the areas and levels for which accreditation has been received.

(c) Reliability. Its reliability is demonstrated by —

(1) Acceptance throughout the United States of its policies, evaluation methods, and decisions by educators, educational institutions, licensing bodies, practitioners, and employers;

(2) Regular review of its standards, policies and procedures, in order that the evaluative process shall support constructive analysis, emphasize factors of critical importance, and reflect the educational and training needs of the student;

(3) Not less than two years' experience as an accrediting agency or association;

(4) Reflection in the composition of its policy and decision-making bodies of the community of interests directly affected by the scope of its accreditation.

(d) Autonomous. Its autonomy is demonstrated by evidence that —

(1) It performs no function that would be inconsistent with the formation of an independent judgment of the quality of an educational program or institution;

(2) It provides in its operating procedures against conflict of interest in the rendering of its judgments and decisions.

(20 U.S.C 1141(a))

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Appendix D

Statements of Purpose by Non-Governmental Accrediting Agencies

One of the questions in Assembly Concurrent Resolution 78 asked, "What are the purposes of nongovernmental accreditation, as stated by each accrediting association?" The following statements have been abstracted from the accrediting materials of each of the commissions in the Commission's study. As might be expected, each commission treats the subject somewhat differently. One commission -- the National Accrediting Commission of Cosmetology Arts and Sciences -- does not treat the topic at all. The eight abstracts follow in alphabetical order.

Accrediting Commission for Junior and Community Colleges, Western Association of Schools and Colleges

Institutional accreditation at the postsecondary level is a means used by regional accrediting commissions for purposes of:

1. Fostering excellence in postsecondary education through the development of criteria and guidelines for assessing educational effectiveness.
2. Encouraging institutional improvement of educational endeavors through continuous self-study and evaluation.
3. Assuring the educational community, the general public, and other agencies or organizations that an institution has clearly defined appropriate educational objectives, has established conditions under which their achievement can reasonably be expected, appears in fact to be accomplishing them substantially, and is so organized, staffed, and supported that it can be expected to continue to do so.
4. Providing counsel and assistance to established and developing institutions.
5. Protecting institutions against encroachments which might jeopardize their educational effectiveness or academic freedom.

Accreditation is attained through a process of evaluation and periodic review of total institutions conducted by regional commissions in accord with national policies and procedures.

Accrediting Commission for Senior Colleges and Universities, Western Association of Schools and Colleges

In order to assist institutions in determining their educational effectiveness, the Commission has recognized four major purposes of accreditation:

1. To assure the educational community, the general public, and other organizations and agencies that an institution has clearly defined objectives appropriate to higher education and that it meets Commission standards;
2. To encourage institutional development and improvement through self-study and periodic evaluation by qualified peer professionals;
3. To develop and use standards to assess and enhance educational quality and institutional performance, and to validate these standards by ongoing research; and
4. To promote interchange of ideas among public and independent institutions through peer review.

American Association of Bible Colleges

Since one of the principal values of accreditation is the stimulus and growth that colleges experience in the accrediting process, the spirit of accreditation should be one of constructive evaluation and helpfulness. Accordingly, examiners are looked upon as consultants rather than police inspectors checking up on conformity to arbitrary standards.

Acceptance of a college is based upon its overall strength. Strict conformity in every detail is not insisted upon, for excellence in major areas may well compensate for minor deficiencies. Then, too, the final test of an institution's strength is whether it is achieving its objectives in preparing students for effective Christian living and service.

Accrediting Council for Continuing Education and Training

ACCET (a) promotes high quality in continuing education programs, (b) verifies such quality, and (c) publicly attests to it. ACCET achieves its purpose primarily through established standards of quality, on-site examinations, related consultations, publications, and conferences.

Accreditation is intended to:

- Help good continuing education programs become better.
- Verify the quality of continuing education programs.
- Assure licensing authorities, certifying bodies, registration agencies, governmental offices, employers, potential enrollees, and the public of the quality of specific continuing education programs.

Association of Independent Colleges and Schools

Accreditation is an independent appraisal of an institution during which its overall educational quality (including outcomes), its professional status among similar institutions, and its operational ethics are judged by peers. Accreditation is a voluntary activity separate and distinct from business licensing, authority to award educational credentials, and eligibility to administer student financial assistance . . . .

1-1-101. Business and Related Emphasis: The Commission evaluates for initial and continuing accreditation those otherwise eligible institutions that offer educational programs through which students gain knowledge and skills that equip them to seek and acquire gainful employment in numerous career fields. Historically, the career fields emphasized in programs of Commission-accredited institutions have been in business or business-related professions. The Commission feels that it is important to the institutions that it accredits for them to maintain that emphasis.

Council on Chiropractic Education

The Council on Chiropractic Education is a national organization advocating high standards of quality in chiropractic education, establishing criteria of institutional excellence for primary health care chiropractic physicians, inspecting and accrediting colleges through its Commission on Accreditation, and publishing lists of those institutions which conform to its standards and policies.

National Association of Trade and Technical Schools

The National Association of Trade and Technical Schools is a voluntary association of private schools. A primary purpose is to establish and maintain high educational standards and ethical business practices in its field.

Accreditation, as herein outlined, is intended to be a means of assisting good private trade and technical schools to become better schools by setting standards to which all private trade and technical schools can aspire.

National Home Study Council

Simply stated, home study school accreditation is certification by a recognized body that a school has voluntarily undergone a comprehensive study and examination which has demonstrated that the school does in fact perform the functions that it claims: that the school has set educational goals for students who enroll, and furnishes materials and services that enable students to meet these stated criteria . . . .

Historically and currently, accreditation may be said to:

- foster excellence in education through the development of standards for assessing educational effectiveness;
- encourage improvement through continuous self-evaluation and planning; and
- assure the educational community, the general public, and other agencies or organizations that an institution has both clearly defined and appropriate objectives, maintains conditions under which their achievements can be reasonably expected, appears in fact to be accomplishing them, and can be expected to continue to do so.

Appendix E

Origins and History of State Licensure of Private Postsecondary Education Institutions in California from 1850 to 1977

The State: Locus of responsibility

The roots of the State's responsibility for the oversight of private postsecondary institutions reach back to colonial times when, either through a charter obtained from the General Court of the colony (as in the case of Harvard and Yale) or directly from the crown (William and Mary), our nation's earliest collegiate institutions were established (Herbst, 1974, p. 7). As a result of the nation's independence, the powers of government formerly exercised by the crown devolved to the people and were exercised through the state government when not expressly provided for in the Constitution of the United States.

Thus enabled by the Tenth Amendment of the nation's Constitution, the authors of the California State Constitution included among its many provisions a section on education (Article IX) which contains this statement of legislative policy:

> Section 1. A general diffusion of knowledge and intelligence being essential to the preservation of the rights and liberties of the people, the Legislature shall encourage by all suitable means the promotion of intellectual, scientific, moral, and agricultural improvement.

The "suitable means" employed by the Legislature in implementing this goal have included establishing public institutions and licensing private institutions. The credentials (i.e., degrees, diplomas) issued by a State college or university carry the authority of the government directly; the act of licensing a private institution transmits a similar legal status to the credentials awarded by the licensed institution.

Authoritative credentials

The authority to issue credentials of competence is a critical matter in a technological society. A task force organized by the American Council of Education to examine the use of educational credentials identified six principles that should govern the appropriate use of the credentialing function. While these relate primarily to the licensing of qualified individuals, they are also pertinent to the public policy at issue in this study and illustrate the interest of the State in the chartering of private institutions as well.

Principles of Credentialing

1. Credentialing should minimize risks to the public health, safety, and welfare by identifying the qualified.
2. Credentialing that recognizes and encourages pride in accomplishment and the mastery of knowledge and skills is in the public interest.
3. Mandatory credentialing should be exercised only where there is demonstrable relationship to the public health, safety, and welfare.
4. Credentialing is substantially interlinked with economic and social rewards in the society. In order to assure social equity, then, all credentialing systems should recognize requisite competencies and learning for a given credential regardless of how or where they are achieved.
5. Credentialing activities of agencies and institutions, whether controlled by agencies of government or sponsored by voluntary occupational and professional organizations, substantially intersect the public interest. The policy-making and governing boards of such agencies should therefore be representative of broad social interests.
6. The credentialing process in fields closely related to the public health, safety, and welfare should include provision that the credentialed be required periodically to prove that they still possess the requisites for acceptable practice

> and have kept pace with advances in the field (Miller and Mills, 1978, pp. 10-11).

One of the California Legislature's first major acts in the State's first year of statehood -- 1850 -- was to provide for the establishing of collegiate institutions. In this landmark statute, the Act of 1850, and in the multitude of amendments that followed, the State conferred its authority to the colleges it chartered to award the appropriate credential of college graduation, i.e., the diploma or degree. The Act of 1850 stated in part,

> Every diploma granted by such trustees shall entitle the possessor to all the immunities which by usage or statute, are allowed to possessors of similar diplomas, granted by any University, College, or Seminary of learning in the United States.

Permanent, well-governed institutions

The State's first collegiate institutions were private institutions chartered under this Act. The imprimatur of the State was important to their alumni. Only slightly more than a century later, in 1958, the Legislature affirmed its continuing commitment to private higher education by adding to the end of some extensive amendments to the *Education Code* this statement of legislative intent:

> It is the intent of the Legislature to foster privately supported education and protect the integrity of diplomas conferred by privately supported as well as publicly supported educational institutions.

Institutional permanence and competent governance were the first considerations reflected in the Act of 1850. At that time, the statute required that (1) an application be made to the State Supreme Court for incorporation as a college, (2) the corporation have "an endowment of twenty thousand dollars," and that (3) the proposed trustees be capable men. A list of trustee powers appropriate to a college Board of Trustees was also specified. During the first few years under this Act, some of the State's most renowned institutions were chartered: University of the Pacific, 1851; University of Santa Clara, 1851; University of San Francisco, 1855; and the College of California (a private college) which later became the University of California, Berkeley, 1855.

The specified endowment of $20,000 was, however, in 1850, not a substantial requirement for the founding of a collegiate institution. Although admittedly few in number, endowment gifts during the mid-1800s even to noncollegiate educational enterprises were to be found in the range of $250,000 to $400,000 (Rudolph, 1962, p. 180) and in 1906 in the State of New York, an institution had to have "a productive endowment of not less than $200,000" to be ranked as a college by the Regents Board of the State of New York (Carnegie Foundation for the Advancement of Teaching, 1906, pp. 66, 79).

This modest financial requirement of $20,000 remained in Statute for about 30 years and then was deleted from the law by the Amendments of 1885. In 1927 it was reinstated in the form of a requirement of $50,000 in "real and personal property ... used exclusively for the purposes of education." The State continued into the 1980s to use this requirement as the sole financial criterion for State authorization, making California's licensing laws the subject of ridicule throughout the country. By 1980, inflation had long since reduced the value of the amount to less than $12,000 (in 1927 dollars). This minimal financial requirement continues to survive in current statutes as a condition of authorization for institutions awarding "degrees in theology and other areas of religious studies" (*Education Code* Section 94310.4).

The State's concern for institutional stability was more substantially expressed in the requirement that collegiate institutions had to be incorporated in order to offer academic or professional degrees. This stipulation, which occurred as a condition of licensure in the Act of 1850, was reinforced by a 1927 amendment prohibiting any other form of collegiate entity.

> No person, firm, association or corporation, other than a corporation incorporated under the provisions of this title, shall have the power to confer academic or professional degrees (*California Civil Code*, Section 651a, 1927).

The merits of corporate status for an educational institution were expressed pointedly in the Supreme Court's decision in the Dartmouth case

(1819) about which the framers of the 1850 Act were undoubtedly well informed:

> A corporation is an artificial being, invisible, intangible, and existing only in contemplation of law. Being the mere creature of law, it possesses only those properties which the charter of its creation confers upon it, either expressly, or as incidental to its very existence. These are such as are supposed best calculated to effect the object for which it was created. Among the most important are immortality, and, if the expression may be allowed, individuality; properties by which a perpetual succession of many persons are considered as the same, and may act as a single individual. They enable a corporation to manage its own affairs, and to hold property without the perplexing intricacies, the hazardous and endless necessity of perpetual conveyances, for the purpose of transmitting it from hand to hand. It is chiefly for the purpose of clothing bodies of men, in succession, with these qualities and capacities, that corporations were invented, and are in use. By these means a perpetual succession of individuals are capable of acting for the promotion of the particular object, like one mortal being (The Trustees of Dartmouth College v. Woodward, 4 Wheat (U.S.) 518 (1819).

In addition to the virtue of "perpetual succession," the corporate form also has the merit of placing the ultimate authority for the educational enterprise in the hands of a deliberative, democratic body of individuals (the Act of 1850 specified 12 to 24 "capable men") rather than one individual as may occur presently in "sole proprietorship universities" in California. Standard 3A of the senior commission of the Western Association of Schools and Colleges identifies the role of the governing board in the following manner:

> The governing board is ultimately responsible for the quality and integrity of the institution.
>
> The board protects the institution from external pressures antithetical to academic freedom, to institutional autonomy, or to integrity (Accrediting Commission for Senior Colleges and Universities, Western Association of Schools and Colleges, 1988, p. 19.)

Institutions that do not grant degrees, namely those vocational schools that have as their goal the training of students for a particular occupation, have never been under this requirement in California. Some of these institutions, such as Woodbury University, Heald College, and Golden Gate University, began as business schools founded by individuals (Golden Gate University began as a law program sponsored by the San Francisco YMCA) and later became incorporated in order to qualify to award degrees.

Proprietary institutions

In 1958, the requirement that degree-granting institutions must be incorporated was deleted in a major revision of the State's statutes governing the licensing of private institutions. The decade of the 1950s was a dynamic era of growing enrollments of veterans returning to school on the "G. I. Bills" of 1944 and 1952. Poor quality educational programs were being reported among the proprietary schools, and a State approval process required by federal code (Title 38) was established to mitigate the abuses of these programs (Chambers, 1983, p. 243).

Because of the great popularity of proprietary vocational schools among the veterans, these schools were instrumental in securing a place in both federal and State statutes which would continue to qualify them to serve veterans. But in granting these institutions this legal status, the California Legislature blurred the distinctions between vocational schools and degree-granting institutions. This merging of these types of institutions occurred by defining "diploma" to include all types of credentials or certificates including academic degrees as well as vocational certificates and then treating all diploma-granting institutions under similar provisions of the statutes. In this process, it was politically infeasible to require all proprietary schools to adopt a corporate structure; consequently, the mandation was removed from the law.

Fiscal accountability, consumer protection, and institutional quality

In many respects, California's 1958 statute affecting private postsecondary education was a major turning point in the types of State concerns expressed in statutory law. Through the first half of the twentieth century, state policies were based on the expectation that institutions would regulate themselves; California, like other states in the nation, tended to avoid a regulatory posture (Accred. . . . . Bender, 1983, p. 20). But by the latter 1950s, the active role of the federal government in postsecondary education began to affect state policy. Issues of fiscal accountability, consumer protection, and institutional quality came to the fore in the 1970s, propelled by federal concerns for the proper and productive use of public funds. The federal government led the way; California grudgingly followed.

The early events that were influential in the State's first major legislation affecting private postsecondary institutions during this period were

1. The resurgence of veterans attending college under The Serviceman's Readjustment Act of 1944 and The Veterans Readjustment Assistance Act of 1952 (after some decline in the early 1950s); and the particular aspects of the latter Act affecting the selection of institutions serving these students:
    a. The state approval process required by the Act;
    b. The publication by the federal Commissioner of Education of "a list of nationally recognized accrediting agencies and associations which he determines to be reliable authorities of quality . . . ."
2. The large increase in proprietary institutions springing up, some of dubious quality, to serve the veterans (Chambers, p. 239).

These developments resulted in the passage of the State's Amendments of 1958, strongly supported, if not actually sponsored, by the private institutions. The codification of statutory language from federal legislation, from the State's Health and Safety Code, the Business and Professions Code, the Government Code, reflected an effort to make this legislative product a comprehensive statement of current State concerns regarding its responsibilities for the oversight of private postsecondary education.

The outcome was a lengthy statute covering these new or expanded policy areas:

1. A definition of the term diploma.
2. The inclusion of proprietary institutions in the *Education Code*. (These institutions were strictly vocational schools up to this time and were covered in the Business and Professions Code). The revision allowed proprietary *degree-granting* institutions to operate under the law for the first time in the State.
3. The provision allowing the Superintendent of Public Instruction to "rely on an accrediting agency generally accepted by the class of institutions concerned . . . ."
4. The provision to empower the Superintendent of Public Instruction to "make such investigations as are necessary to determine whether or not there has been compliance . . . ." In addition, the State's adjudicatory hearing process was made "applicable to any determination of the superintendent pursuant to this subdivision." (In so far as earlier compliance language is concerned, a penalty for violating this Section of the Code was first introduced in 1927 [a violation was a misdemeanor in 1927; this was upgraded to a felony in 1958], and the Attorney General was enjoined to take steps to dissolve the noncomplying corporation, restrain fraudulent practices and punish any person guilty of fraudulent practices [also in 1927].)
5. The Legislature provided General Fund support for the administration of this law ($25,665 for FY 1958-59).
6. Legislative intent language was added to the end of Section 24220 expressing support for fostering private education and protecting the integrity of the degree. It was during this period of planning for the rapid growth of higher education enrollments that the Master Plan Committee had projected a nearly 300 percent increase in college enrollments during the years 1960-1975. In point of fact, their best projections seriously underestimated enrollments in 1975 and had not even taken into account the proprietary sector. It was this environment which produced the statement of legislative intent which is still continued in the *Education Code*:

> In the present period the need for educational services for the *youth* (emphasis added) is so

> great that it cannot be met by tax-supported institutions alone. The contribution of privately supported educational institutions to the preservation of our liberties is essential. These can best be served by protecting the integrity of diplomas issued by such institutions.

Six categories of State licensure of institutions were created or codified in this 1958 Statute. Section 24206 of the *Education Code* contained the language which stated that "except as otherwise provided by law, no person, firm, association, partnership or corporation may issue or confer a diploma or honorary diploma unless such person, firm, association, partnership or corporation meets the requirements of one of the following subdivisions."

a. A corporation which has filed an affidavit stating that it owns an interest in real or personal property used exclusively for educational purposes, of a value of not less than $50,000

b. A hospital licensed under the Health and Safety Code

c. A person, firm, partnership or corporation which is approved by a licensing board under the Department of Professional and Vocational Standards

d. Any educational institution accredited by the State Board of Education for offering training for teacher credentialing purposes

e. Any institution approved by the Bureau of Readjustment Education of the Department of Education

f. A person, firm, association, partnership or corporation authorized by the Superintendent of Public Instruction to issue specified diplomas. Such authorization was available to the institution if it could demonstrate "that the courses of instruction, and the faculty or requirements of such applicants will afford students or require of students a course of education comparable to that being furnished by persons, firms, associations, partnerships and corporations offering similar instruction and complying with other subdivisions hereof." For the purpose of this subdivision, *the Superintendent of Public Instruction may rely on the findings of an accrediting agency generally accepted by the class of institution concerned* (emphasis added) and shall consider the results of the examination taken pursuant to Business and Professions Code, Section 2941.5 by students of any applicant. (This section of the *Business and Professions Code* governed the administration of junior examinations, listed qualifications, and scope of examination.)

As an expression of State concerns in the oversight of private postsecondary education, the 1958 Act was a curious piece of legislation. It was clearly inclusionary; that is to say, every effort appears to have been made to include every category of licensure (including *state* accreditation) in the State in the six categories of institutional qualification in the *Education Code*. One result was that the terms authorization, approval, and accreditation were all used without either an explicit or implied hierarchical structure. The 1958 Act also reflected an effort to strengthen the compliance authority of the Superintendent by providing a basis for prosecuting the fraudulent issuance of diplomas, but at the same time it did little for ensuring the integrity of diplomas within the universe of State licensed institutions. The Statute expressed the intent but did not come fully to grips with the means for carrying out that intent.

Significant deletions of State policy

The new statutes of 1958 omitted some significant requirements from earlier law: (1) the requirement that degree-granting institutions be incorporated and, thus, have corporate (governing) boards (required since 1850); (2) the restriction against distributing profits of profit-making educational corporations (degree-granting) except upon dissolution of the corporation (required since 1927); and (3) the requirement (since 1927) that degree-granting institutions submit an annual report to the Superintendent containing the number of students of the corporation, together with the names and addresses of the students, the courses of study offered by the corporation, the names and addresses of the teachers employed by the corporation, the subjects taught by them, the degrees, diplomas, or certificates, if any, granted by the corporation, and to whom granted, the curricula upon which the degrees, diplomas, or certificates were granted, and any other information concerning the educational work or activities of the corporation that may be required by the Superintendent of Public Instruction (*1943 Education Code*, Section 24213).

While the 1958 Statute brought together in one Section of the *Education Code* a number of licensing procedures that had existed in a variety of Codes and actually added one which for the first time allowed the State to rely upon non-governmental accreditation, it did more to confuse State licensure responsibilities than to improve them. By placing the six licensure categories in juxtaposition without any apparent sense of relationship or qualitative ranking, the State inadvertently gave the impression that there were no useful distinctions to be made between the "state-accredited" teacher education institutions, the "state-approved" institutions (*approved* for veterans' benefits), and a "state-authorized" institution authorized by the Superintendent on the basis of its accreditation or on the basis of having $50,000 in net assets. Each of the licensing processes and criteria were very different and had been developed by different agencies for very different purposes.

Several negative by-products developed from the 1958 amendments. As a result of this new Statute, the State made it feasible for a single individual (without incorporating) to operate a profit-making "university" under Section 24206 (f). A Section 24206 (a) corporation could operate even if its $50,000 in personal assets were maintained out-of-state (34 Ops. Att. Gen. 98). All private institutions were given equal status under the law, although only accredited institutions and, to a lesser degree, institutions approved for veterans' benefits, had on-site reviews that were not required of the $50,000 schools. Because the annual reporting process had been deleted, the $50,000 schools also had no requirement to report any instructional or degree-granting activities. The law did require that records of students be maintained for three years, but a site visit by State representatives to examine the records or any other aspect of the institution's operations was not a standard operating procedure. It was not until 20 years later that the Private Postsecondary Education Act of 1977 made authorization site visits mandatory.

Reform begins in the 1970s

Throughout the 1960s and the early 1970s, the State's licensing statutes were gradually amended to provide (1) a differentiation in levels of quality in the State's licensing process, (2) more consumer protection, and (3) more on-site review of institutions. The first two of these three major changes were the results of developments at the national level which compelled the State to upgrade its statutes; the latter change resulted largely from a Commission recommendation amended into the Private Postsecondary Education Act of 1977.[*]

The assessment of institutional quality and State recognition

The current *Education Code* has three levels of State recognition for collegiate institutions which require descending degrees of qualitative standards and rigor in their evaluation procedures. These three levels are accreditation by a non-governmental accrediting agency, State approval, and State authorization (*Education Code* Sections 94310.1a,b; 94310.2; and 94310.3/94310.4, respectively). Prior to the adoption of the State's 1958 licensing law, references to qualitative standards for institutions did not exist. As a matter of fact, unless one holds that the requirements that an institution's board members be "capable men" or that the minimal financial requirement of $50,000 in net assets are qualitative standards, one could argue that the State of California did not consider institutional quality to be a matter of governmental concern until after the federal government (in 1952) had found it necessary to rely upon certain "accreditation agencies as reliable authorities as to the quality of training offered by an educational institution . . . ." (P.L. 82-550, Section 1775).

As mentioned earlier, the first reference to a reliance on accreditation in California's licensing Statute was made in 1958. By 1963, the accredited institutions in California (those accredited by a national or regional accrediting agency recognized by the federal Office of Education) were able to maintain their *licensed* status merely by submitting an annual affidavit stating that the institution was accredited. If the question of whether the State should require an assessment of institutions beyond that required for accreditation as a part of its licensing process was an issue, on this issue the State deferred. The CPEC cautioned in 1976 that non-governmental accreditation was not a foolproof process of institutional assessment, that the State had given up its responsibility for oversight of accredited institutions in the licensing law (*Education Code* Section 29023 (a)(1)), and that such abdication "is not only unwise, but may subject the State to civil liability" (CPEC, 76-7). This wholesale relinquishing of authority was recently remedied in part by SB 1884 of 1988. This law empowers the Superintendent of Public Instruction to remove an accredited institution's license to operate in the State if the institution is not in compliance with its own accreditation agency's standards and the accrediting association has not addressed the institution's lack of such non-compliance.

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[*] The Commission's 1976 report, *The Role of the State in Private Postsecondary Education: Recommendations for Change*, examined three critical issues: the lack of consumer-protection provisions in State statutes; the ineffective enforcement of compliance with these statutes; and the problems inherent in the State's relying upon accreditation as a measure of institutional quality and probity.

If the evolution of California's licensing law is any indication, there seems to have emerged within the last decade a growing consensus that it is an appropriate function of the State to be concerned with the quality of the private postsecondary institutions that operate within its boundaries. Such a judgment seems justified on the basis of two relatively recent developments:

> *State licensure of out-of-state accredited institutions: Education Code* Section 94310.1b provides a process for the State to review the California branches of accredited institutions from other regions of the nation. The standards adopted by the Private Postsecondary Education Division for use in this process reflect the qualitative standards of the regional accrediting associations which have accredited the main campuses of these institutions. (1986 amendment)
>
> *State approval by means of a qualitative review and assessment of an institution: Education Code* Section 94310.2 provides for a qualitative review and assessment of each program of an institution seeking State approval, including a determination that "the curriculum is consistent in quality with curricula offered by appropriate established accredited institutions . . ." (1986 amendments)

A discussion of the implementation of these processes is a topic more appropriately reserved for the Commission's review of the entire Private Postsecondary Education Act of 1977, *Protecting the Integrity of California Degrees*. The relationship of the State's concern with the quality of an institution's programs to questions of compliance with minimum standards is a topic which deserves more attention than can be given here. It is perhaps sufficient at this point to observe that the State has made a commitment to assess the quality of certain institutions under its purview and is currently involved in carrying out this task.

Consumer protection

The student has been the object of concern in the discussions of consumer protection from at least the 1960s to the present. There is another group of consumers -- "the persons, groups, or agencies benefitting from or using the judgments of the credentialing authority" (Miller and Mills, p. 9). These consumers -- the employers of students once they have graduated -- also have rights that should be protected; however, the interests of this consumer clientele are usually considered in discussions relating to the ensuring of institutional quality and the integrity of the degree rather in discussions of "consumer protection."

Certain protection was afforded students through amendments introduced into the State's licensure law as early as 1963 when a number of prohibitions relating to false advertising were added (Statutes of 1963, *Education Code* Section 29008). The major effort to address the problems students were experiencing came in the 1970s. The Federal Trade Commission held extensive hearings on private postsecondary institutions to determine the extent of the lack of student protection. The CPEC report cited above (76-7, pp. 87-102), drew from the results of this process in listing seven problem areas ranging from tuition refund problems, to abrupt school closures, and the lack of an effective procedure for handling student complaints. In each case, an appropriate remedy through State law was recommended and many of these recommendations subsequently were adopted in the Private Postsecondary Education Act of 1977.

Increase in team site visits in the licensing process

In 1982, only the approval process for licensing degree-granting institutions (*Education Code* Section 94310.2) required a campus review by a team composed of peer evaluators and State personnel. Since that time, institutional review teams have been instituted for out-of-state accredited institutions operating in California and for authorized institutions operating under both *Education Code* Sections 94310.3 and 94310.4. The number of State evaluation visits to these institutions has risen from only a few institutions per year in 1982 to about 50 during 1987.

As an expression of the State's responsibility for the oversight of private institutions, the increases in the number of campus visits by State review teams may seem to be of secondary importance. Specific goals of the State's oversight -- maintaining the integrity of degrees, determining the financial stability of institutions, or ensuring that student protection provisions are working -- seem to be more central to the questions of the State's responsibilities regarding the operation of private institutions and of its reliance upon accreditation.

The changes in statute which brought about the increase in on-site reviews by State evaluation teams does not signify a change in State goals in the oversight of private postsecondary education, but it does indicate an important change in the administrative attitude toward the pursuit of these goals: a change from a distant, *laissez faire* posture to a more active, involved oversight.

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PROTECTING THE INTEGRITY OF CALIFORNIA DEGREES

"No kidding? Are you really getting college credit for this?"

CALIFORNIA POSTSECONDARY
EDUCATION COMMISSION

Summary

California's law regulating privately supported postsecondary education -- the Private Postsecondary Education Act of 1977 -- will sunset on January 1, 1992, unless the Legislature extends or repeals its termination date. In anticipation of that decision, the Legislature directed the Commission to report by September 1, 1989, on the effectiveness of certain portions of the law in "protecting the integrity of degrees and diplomas issued by private postsecondary educational institutions" as well as on the implementation of the law by the California State Department of Education.

In this report, the Commission responds to the Legislature's request. Part One of the report briefly describes the scope of California's private postsecondary education enterprise and offers 21 findings about its regulation by the State. Part Two traces the origins and development of today's law; Part Three assesses the effectiveness of the law in achieving its goals; Part Four evaluates the adequacy of its implementation by the Department of Education; and Part Five summarizes the problems that stem from the law's defects and its inadequate implementation.

Eight years ago, in the Commission's five-year plan for California postsecondary education from 1982 to 1987, the Commission identified as one of its nine priorities for action the protection of the integrity of California's degrees and other credentials. Over that half-decade, California has made more progress in assuring a basic level of consumer protection regarding its degrees than in the previous 20. Yet this report concludes that still more progress is needed, both in strengthening the law itself and its implementation, in order to bring California to the minimum level of consumer protection offered by other major industrial states of the nation. Otherwise "California will retain its reputation throughout the country and the world for tolerating questionable credits and discount diplomas, and it will continue to be unable to ensure the integrity of its degrees and the protection of its citizens who depend on that integrity" (p. 60).

The Commission adopted this document, along with a related report, *Recommendations for Revising the Private Postsecondary Education Act of 1977*, at its meeting on April 17, 1989. Additional copies of both reports may be obtained from the Library of the Commission at (916) 322-8031. Questions about the substance of this report may be directed to JB Hefferlin of the Commission staff at (916) 322-8021.

Cover drawing courtesy Harley L. Schwadron
of Ann Arbor, Michigan, and *Phi Delta Kappan*.

PROTECTING THE INTEGRITY OF CALIFORNIA DEGREES

The Role of California's Private Postsecondary Education Act of 1977 in Educational Quality Control

CALIFORNIA POSTSECONDARY EDUCATION COMMISSION
Third Floor • 1020 Twelfth Street • Sacramento, California 95814-3985

COMMISSION REPORT 89-17
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Findings

THE California Legislature has charged the California Postsecondary Education Commission to review the Private Postsecondary Education Act of 1977 -- the State's primary law regulating all privately supported education beyond the high school, which is reproduced on pages 61-88 below. The Commission is to report to the Legislature by next September on two topics: (1) the implementation of the law by the State Department of Education, and (2) the effectiveness of three sections of the law "in protecting the integrity of degrees and diplomas issued by private postsecondary educational institutions" (Education Code Section 94345).

This document responds to the Legislature's charge. After tracing the origins of today's law in Part Two, it assesses the effectiveness of the law in Part Three and then discusses its implementation by the Department of Education in Part Four. As an introduction, this first section presents an overview of privately supported postsecondary education in California and summarizes the Commission's findings about the impact and operation of the law.

Scope of the private postsecondary enterprise

Postsecondary education in California consists of a wide variety of institutions -- public and private, degree granting and non-degree granting -- as Display 1 on page 2 shows.

The public sector consists of some 536 institutions and campuses of multi-campus systems -- California's State-supported community colleges and universities as well as 330 adult schools and 70 regional occupational centers.

Its privately supported sector consists of a far larger and more complex assortment of institutions, including State authorized, State-approved, accredited, and religiously exempt. Its over 450 degree-granting institutions are grouped into these major categories under the 1977 act:

- *State authorized:* California uses the term *authorization* to refer to its minimum license for private postsecondary institutions. Unless a degree-granting institution is exempted from the provisions of the law for religious reasons, it must obtain authorization from the Superintendent of Public Instruction to operate and grant degrees. The Superintendent grants authorization for up to five years to colleges and universities on the basis of a comprehensive on-site review, or for up to three years to schools of theology on the basis of the accuracy of their documents and $50,000 of net education assets. Some institutions prefer to remain authorized rather than move to State-approved status or seek accreditation; and according to the Private Postsecondary Education Division in the State Department of Education, 78 of them were authorized as colleges or universities and 12 were authorized as schools of theology as of November 1988.
- *State approved:* Authorized institutions may decide to earn *State approval* if they wish, but they are not required to do so. State-approved institutions have had all of their degree programs approved by the Superintendent on the basis of an institutional self-study and a comprehensive on-site evaluation of the quality of these programs. Historically, approval has been considered as the State's highest level of review. Moreover, only State-approved institutions are eligible to be accredited by the region's recognized accrediting agency -- the Western Association of Schools and Colleges. Currently 70 are approved by the Superintendent, who grants approval for periods of up to three years.
- *Accredited:* The State permits California-based accredited institutions to award degrees based on an annual affidavit of their accreditation by the Committee of Bar Examiners for the State of California or an accrediting agency recognized by the United States Secretary of Education. Currently 197 are operating under this section of the Education Code.

DISPLAY 1 The Scope of California Postsecondary Education as of November 1988

Publicly Supported

Degree Granting

- University of California (9 campuses)
- The California State University (19 campuses)
- 106 Community Colleges
- California Maritime Academy
- Hastings College of the Law

Non-Degree Granting

- 330 Adult Schools
- 70 Regional Occupational Centers

Privately Supported

Degree Granting

- 197 accredited California-based colleges and universities
- 12 branches of accredited out-of-state colleges and universities
- 70 State approved institutions
- 78 State-authorized colleges and universities
- 12 State-authorized schools of theology
- Approximately 87 institutions operating with religious exemptions
- Unknown number of institutions operating without exemptions

Non-Degree Granting

- 316 accredited schools, institutes, and other institutions
- 1,762 approved non-degree granting institutions
- 391 licensed schools and hospitals

Sources: California Postsecondary Education Commission and Private Postsecondary Education Division, November 1988b.

- *Accredited out-of-state:* The State allows branches of out-of-state accredited institutions to operate in California by licensing them. Currently a dozen are operating here, although some are not licensed as accredited out-of-state but as authorized.
- *Religiously exempt:* The State exempts programs of nonprofit religious institutions from the provisions of the law if they are restricted solely to the principles of a church or denomination, but it does not recognize, license, or approve them or their degrees. The Superintendent has exempted some 87 in recent years, but an unknown number operate without having applied for exemption.

Beyond these privately supported degree-granting institutions, nearly 2,500 others prepare students in specific skills or for specific careers but offer diplomas or certificates of attainment rather than academic degrees. The most numerous of these career-related are those that offer flight training, business training, preparation for real estate salesperson licenses, and cosmetology. They may be categorized as follows:

- *Accredited:* Currently 316 offer programs accredited by one or another nationally recognized accrediting agency, based on submitting an annual affidavit of their accreditation.
- *State-approved:* Some 1,762 are approved by the Superintendent for one-year periods as meeting nine specific criteria of quality.
- *State-authorized:* Three-hundred and ninety-one are licensed by state boards or agencies or the Federal Aviation Administration -- 18 of them hospitals that offer non-degree programs in the health sciences.

Size and role of private education

Although California's privately supported institutions outnumber its State-supported ones by a ratio of over five to one -- nearly 3,000 compared to 536, the public sector enrolls more students Its degree-granting institutions enroll over 1.5 million alone - a million of them in community colleges. Data on the number of students in privately supported institutions is scattered and incomplete, since California requires only its public institutions to supply these facts annually. Thus State policymakers have little reliable information on which to base their decisions affecting the private sector. But the Private Postsecondary Education Division of the Department of Education estimates that nearly a million students attend non-degree granting private schools -- with H & R Block and Century 21 enrolling hundreds of thousands of them. From data available to the Commission and reproduced in Appendix C to this report, the Commission estimates that a considerably smaller number attend degree-granting institutions and that, of these, more attend accredited than non-accredited institutions.

Despite their average small size, private institutions play an important role in California education. Perhaps most important is their innovative function: They enter new fields, pioneer new programs, and offer new forms of education that are only later adopted by public institutions. California at large, as well as California education, is stronger because of them.

Through the Private Postsecondary Education Act of 1977, California seeks to promote privately supported education beyond the high school. It aims to encourage recognition of the degrees and diplomas issued by private institutions, and it tries to protect the integrity of these credentials. Based on the Commission's analysis of the law and its implementation, the Commission has come to the following 21 conclusions about its effectiveness:

Importance of the law

1. The intent of the Private Postsecondary Education Act is sound: California benefits from non-public higher education, and it should continue to encourage privately supported institutions and the acceptance of their degrees by public institutions as well as help protect the integrity of these degrees.

2. California has an interest in ensuring the meaning of all educational certificates, diplomas, and degrees, since its citizens, corporations, and agencies increasingly use these credentials for making major personal and occupational decisions. Rather than confusing or weakening the meaning of degrees and contributing to public cynicism and distrust of them, the State wisely seeks to ensure their meaning and their proper use.

3. California's changing demographics are increasing its need for consumer protection regarding academic degrees. While some native-born Californians are likely to buy degrees that prove worthless in their careers, many of California's growing number of immigrants may be vulnerable to doing so because they are less knowledgeable about differences in the utility of various degrees.

Adequacy of the law

4. Under the 1977 act, privately supported postsecondary education has flourished. California has the widest array of excellent private institutions of any state in the nation, including many good non-accredited ones. But others are inadequate, and they have worldwide repercussions in throwing suspicion on the reputation of the rest.

5. The Private Postsecondary Education Act regulates both non-degree granting and degree-granting institutions, and California needs to ensure better regulation of both types of institution.

6. Over the past five years, through amendments to the act, California has made more progress in ensuring a basic level of consumer protection regarding diplomas and degrees than in the previous 20. Still more progress is needed, however, to bring California to the minimum level of protection offered by other major industrial states of the nation.

7. The law has not succeeded in protecting the integrity of degrees, integrating non-accredited private higher education into the mainstream of California higher education, ensuring respect and credi-

bility for the entire private sector or achieving recognition of degrees from non-accredited institutions.

8. The law's sections that regulate private degree-granting education have several strengths -- in particular, its new standards for all State-authorized colleges and universities, including the requirement that they offer instruction, and its expectation that the California operations of all out-of-state accredited institutions meet commonly accepted standards of quality.

9. The greatest weakness of the law in ensuring the meaning of California degrees is its exemption of presumably religious institutions from its requirements and standards, which allows any seemingly ecclesiastical organization to grant degrees for years until it is finally prohibited from doing so by the Attorney General.

10. A second failure is the law's specification that the curriculum of State-approved institutions is consistent in quality with those of accredited institutions and that the academic achievement of their graduates are also comparable, leading to confusion about the integrity of the degrees of both accredited and approved institutions.

11. A third weakness is its two categories of "authorization" with widely different standards for colleges and universities on the one hand and schools of theology on the other.

12. The other major problem of the law is its enforcement sections, which lack adequate first-offence penalties, sufficient "padlock" provisions to halt the operation of substandard authorized institutions, continuing jurisdiction of proprietors, and statutory language governing *nolo contendere* convictions of proprietors or agents.

Adequacy of implementation

13. More problems in ensuring the integrity of degrees and diplomas stem from inadequate implementation of the law than from inadequacies of the law itself. If California simply required institutions to meet its existing law, it would enhance respect for these credentials significantly.

14. California may expect too much leadership in this area from its Superintendents of Public Instruction, who are charged with implementation. Neither of the State's recent Superintendents have succeeded in obtaining adequate funds for implementing the law.

15. The Council for Private Postsecondary Educational Institutions, which exists to advise the Superintendent regarding the law, has taken the lead in strengthening the State's minimum standards for degree-granting institutions but until last year hindered implementation of the law by its veto of proposed increases in institutional fees.

16. The Division of Private Postsecondary Education in the Department of Education is unable to ensure the integrity of degrees and diplomas because its first obligation is to fulfill its Veterans Administration contract as California's "state approval agency" for courses taken by veterans, military personnel, and their dependents.

17. The Division is unable to regulate adequately the number of institutions it oversees and exempts because of funding limits imposed by the Department of Finance, the Legislature, and -- until last year -- the Council for Private Postsecondary Educational Institutions.

18. The Division has been ineffective in enforcing the standards of the law because of the failure of some staff members to require approved and authorized institutions to meet these standards, including (1) adequate achievement of the graduates of approved institutions and (2) systematic, rigorous evaluations for awarding credit by authorized institutions.

19. California's dependence on institutional fees to cover the costs of regulation causes Division staff to place their advisory and consultative roles to institutions ahead of their regulatory duties, thereby seriously weakening enforcement of the law.

20. The Division's past operating practices may prevent the Office of the Attorney General from arguing

successfully cases that stem from the Division's denial of reauthorization or reapproval.

Summary

21. In 1976, the Commission recommended that the Legislature undertake a complete revision of the existing statute regulating private postsecondary education in order to "promote the integration of private institutions (particularly vocational / technical schools) into California's postsecondary education system; provide an appropriate regulatory agency that is responsive to the needs of both the producer and consumer of private education; and foster and improve the educational programs and services of private institutions while protecting the citizens of California from fraudulent or substandard operations" (p. 118). The Private Postsecondary Education Act of 1977 was the result. Despite improvements both in the law and its implementation since then, these goals of the Commission continue to elude attainment.

Chap. 117.

AN ACT *to provide for the Incorporation of Colleges.*

Passed April 20, 1850.

The People of the State of California, represented in Senate and Assembly, do enact as follows:

§ 1. Any College may be incorporated in this State, according to the provisions of this Act, by the Supreme Court of the State, upon application.

Supreme court may incorporate colleges.

§ 2. The founders or contributors of any proposed College within this State shall make to the Supreme Court application in writing, under their hands, requesting that ——— College may be incorporated, specifying the first trustees, and the name by which the corporation is to be called.

Application for incorporation of colleges.

§ 3. In case the Court shall be satisfied that the proposed College has an endowment of twenty thousand dollars, and that the proposed trustees are capable men, then the Court shall, by an instrument under its seal, declare the College incorporated, under the provisions of this Act, by the name specified in the application; and the application, together with the declaration of the Court, shall be recorded in the office of the Secretary of State.

Court may declare college incorporated.

Application and declaration to be recorded.

§ 4. Immediately after recording the same, the property and funds of such College shall be vested in the trustees so nominated, for the use and benefit of the College.

Property of college to vest in trustees.

§ 5. The trustees of every such College shall not be more than twenty-four, nor less than twelve in number; and seven trustees of any college shall constitute a quorum for the transaction of business.

Number of trustees. Quorum.

§ 6. The trustees of every such College shall be a corporation, known by the name and style of the President and Board of Trustees of ——— College; and by that name they and their successors shall be known in law, have perpetual succession, sue, and be sued, in all Courts and in all actions whatsoever.

Style of incorporation.

§ 7. The trustees shall have power, 1. To elect by ballot, annually, one of their number as President of the Board: 2. Upon the death, removal out of the State, or other vacancy in the office of any trustee, to elect another in his place: 3. To elect additional trustees, provided the whole number elected shall never exceed twenty-four at any one time: 4. To declare vacant the seat of any trustee who shall absent himself from eight succeeding meetings of the Board: 5. To receive and hold, by purchase, gift, or grant, any real or personal property; *Provided*, that the yearly income of the College shall not exceed its necessary yearly expenses ten thousand dollars; 6. To sell, mortgage, lease, and otherwise use and dispose of such property, in such manner as they shall deem most conducive to the prosperity of the College: 7. To direct and prescribe the course of study and discipline to be observed in the College: 8. To appoint a President of the College, who shall hold his office during good behavior: 9. To appoint such Professors, Tutors, and other officers as they shall deem necessary, who, unless employed under a special contract, shall hold their offices during the pleasure of the trustees: 10. To remove from office the President, and every Professor, Tutor, or other officer employed, upon a complaint in writing, by any member of the Board of Trustees, stating the misbehavior in office, incapacity, immoral conduct of the person or persons sought to be removed, and upon due examination and proof of such complaint: 11. To grant such literary honors as are usually granted by any University, College, or Seminary of learning in the United States, and in testimony thereof, to give suitable diplomas under their seal, and the signature of such officers of the College as they shall deem expedient: 12. To fix the salaries of the President, Professors, and other officers of the college: 13. To make all by-laws and ordinances necessary and proper to carry into effect the preceding powers, and necessary to advance the interests of the College; *Provided*, that no by-laws or ordinance shall conflict with the Constitution or laws of the United States or of this State.

Powers of trustees.

§ 8. Every diploma granted by such trustees shall entitle the possessor to all the immunities which, by usage or statute, are allowed to possessors of similar diplomas, granted by any University, College, or Seminary of learning in the United States.

Effect of diploma.

DISPLAY 2

2

Origins of Today's Law

CALIFORNIA'S Constitution instructs the Legislature to "encourage by all suitable means the promotion of intellectual, scientific, moral, and agricultural improvement." The "suitable means" employed by the Legislature to implement this goal include establishing public institutions and licensing private institutions. Thus one of the Legislature's first major acts in the State's first year of statehood -- 1850 -- was to provide for the establishing of collegiate institutions. The "Act of 1850," reproduced on the opposite page, required that:

1. An application be made to the State Supreme Court for incorporation as a college;
2. The corporation have "an endowment of twenty thousand dollars"; and
3. The proposed trustees be capable men.

Under this act, which also specified the powers appropriate to a college board, the first of California's excellent higher education institutions were created -- beginning with the University of the Pacific and Santa Clara University the very next year.

The act's two requirements of incorporation as a college and an endowment of $20,000 may seem to be somewhat minimal requirements -- but they have long since gone by the board. Today's law regulating the integrity of California's degrees is in some ways stronger than that of 1850 -- but in other ways is weaker.

- It is stronger in that it requires periodic review and relicensure of degree-granting institutions.
- But it is weaker in that it no longer requires incorporation; it allows some institutions to operate with less than $1,000 in 1850 dollars; and it permits allegedly religious institutions to grant degrees simply on their claim of exemption from the law.

The following pages trace these changes, which took place primarily in 1927, 1958, and 1977, in order to show the origins of today's law.

Amendments of 1927

The 1927 Amendments reinforced the 1850 requirement that collegiate institutions had to be incorporated by clearly prohibiting individuals from granting degrees by themselves: "No person, firm, association or corporation, other than a corporation incorporated under the provisions of this title, shall have the power to confer academic or professional degrees" (California Civil Code, Section 651a, 1927). This requirement remained in effect for another 30 years, until the Legislature abandoned it in 1958.

The modest financial requirement of $20,000 endowment in the Act of 1850 was deleted from the law by the Amendments of 1885 but then reinstated in 1927 in the form of a requirement of $50,000 in "real and personal property . used exclusively for the purposes of education." Until the 1980s, the State continued to use this requirement as the sole financial criterion for State authorization, making California's licensing laws the subject of ridicule throughout the country. By 1980, inflation had reduced the value of the amount to less than $12,000 in 1927 dollars, but this minimal financial requirement survives as one of two conditions expected of institutions awarding degrees in theology and religion.

The 1927 amendments added three other provisions to the law:

1. A restriction against distributing the profits of degree-granting profit-making educational corporations except upon dissolution of the corporation;
2. A requirement that all degree-granting institutions submit an annual report to the Superintendent of Public Instruction "containing the number of students of the corporation, together with the names and addresses of the students, the courses of study offered by the corporation, the names and addresses of the teachers employed by the corporation, the subjects taught by them, the degrees, diplomas, or certificates, if

any, granted by the corporation, and to whom granted, the curricula upon which the degrees, diplomas, or certificates were granted, and any other information concerning the educational work or activities of the corporation that may be required by the Superintendent . . . " (Section 24213, 1943 *Education Code*).

3. A misdemeanor penalty for violating this section of the Code, with the Attorney General enjoined to take steps to dissolve the non-complying corporation, restrain fraudulent practices, and punish any person guilty of fraudulent practices.

For the next several decades, no major changes occurred in the law, and California continued to operate on the expectation that educational institutions would adequately regulate themselves. But World War II brought significant alterations, and the regulatory needs of the federal government began to affect State policy.

At the end of the war, the federal government needed some way to see that educational institutions were offering courses to veterans worthy of Veterans Administration reimbursement. Under the Veterans' Readjustment Act of 1944, governors of the states had a choice of either assigning this oversight task to a state agency or allowing the Veterans' Administration to inspect the institutions itself. California's Governor Earl Warren assigned this inspection task to two agencies -- the Department of Industrial Relations, which created the Apprenticeship Standards Division to approve on-the-job training and apprenticeships; and the Department of Education, which created the Division of Readjustment Education to approve school courses. That Division became California's regulator of the degrees of private colleges and universities. (Its name was changed in 1958 to "Bureau of Readjustment Education," in 1969 to "Bureau of School Approvals," in the mid-1970s, to "Office of Private Postsecondary Education," and in 1985 to the current "Private Postsecondary Education Division.")

State approval agencies like the Apprenticeship Standards Division and the Private Postsecondary Education Division have become responsible for monitoring and approving training programs not only for veterans, but also, under more recent federal legislation, their dependents, active duty service personnel, and reservists. They seek to act on behalf of both state and federal governments as "the major deterrent to unscrupulous individuals and institutions who desire to exploit the student for financial gain rather than assisting them to acquire the promised education assistance" (Dickinson, 1987, p. 4).

Between 1944 and 1949, the number of proprietary or profit-making trade schools jumped from some 1,900 to 5,600 nationally. Poor quality educational programs were reported among some of them, and because of obvious exploitation by at least a few of them, Congress passed increasingly detailed legislation in 1946, 1947, 1950, and two years later through the second "GI Bill" -- the Veterans Readjustment Assistance Act of 1952 -- at the time of the Korean War. That act directed the United States Commissioner of Education to publish "a list of nationally recognized accrediting agencies and associations which he determines to be reliable authorities of the quality of training offered by an educational institution" (Section 1775, PL 82-550), and it added accreditation by such agencies as a way besides state approval for institutions to obtain federal support. It set the pattern for the federal government's continuing reliance on accreditation as an indicator of educational quality, and it had major impact on subsequent state laws, including California's Amendments of 1958.

Amendments of 1958

For California, 1958 was the turning point in State laws affecting private postsecondary education. The Amendments of that year were strongly supported, if not actually sponsored, by the State's private institutions. They brought together statutory language from federal legislation, the State's Health and Safety Code, its Business and Professions Code, and its Government Code into a comprehensive statement of policy regarding State oversight of private postsecondary education.

Under the 1958 Amendments, which were codified as Division 21 of the Education Code as then organized, Section 24206 identified or created six categories of State licensure of institutions:

a. A corporation which has filed an affidavit . . . stating that it owns an interest in real or personal property used exclusively for educational purposes, of a value of not less than $50,000

b. A hospital licensed under the Health and Safety Code

c. A person, firm, partnership or corporation which is approved by a licensing board under the Department of Professional and Vocational Standards

d. Any educational institution accredited by the State Board of Education for offering training for teacher credentialing purposes

e. Any institution approved by the Bureau of Readjustment Education of the Department of Education

f. A person, firm, association, partnership or corporation authorized by the Superintendent of Public Instruction to issue specified diplomas.

All of these institutions could issue diplomas and degrees if they could demonstrate:

> that the courses of instruction, and the faculty or requirements of such applicants will afford students or require of students a course of education comparable to that being furnished by persons, firms, associations, partnerships and corporations offering similar instruction and complying with other subdivisions hereof.

The law specified that for the purpose of that particular subdivision, "the Superintendent of Public Instruction may rely on the findings of an accrediting agency generally accepted by the class of institution concerned" and could consider the results of State examinations taken by students of these institutions.

Among the significant changes in the statute were these new or expanded policies:

1. The term *diploma* was defined to include all types of credentials, including academic degrees as well as vocational certificates.
2. Proprietary institutions were included in the Education Code for the first time -- having previously been included in the Business and Professions Code because of their profit-making nature -- and they were allowed to grant degrees. Their inclusion blurred the former distinction between vocational schools and degree-granting institutions. Because it was politically infeasible to require all proprietary schools to adopt a corporate structure, the Legislature dropped the 1850 requirement that degree-granting institutions be incorporated. This made it feasible for a single individual, without incorporating, to operate a profit-making "university" under Section 24206 (f) of the Code.
3. The Superintendent of Public Instruction was not only allowed to rely on accreditation but was empowered to "make such investigations as are necessary to determine whether or not there has been compliance . . . ." Prior to this, California law made no references to qualitative standards -- unless its 1850 requirements that an institution's board members be "capable men" and that it have $20,000 in endowment could be considered indicators of institutional quality
4. The State's adjudicatory hearing process was made "applicable to any determination of the superintendent pursuant to this subdivision."
5. The misdemeanor penalty of 1927 was upgraded to a felony.
6. All institutions were required to maintain their records for three years -- until then a requirement only of those seeking approval for veterans' educational support.
7. Finally, the Legislature added intent language to the end of Section 24220 expressing support for fostering private education and protecting the integrity of degrees.

At the time of the 1958 Amendments, the State was beginning to plan for rapid expansion of college enrollments. Two years later, the Master Plan Committee would project a nearly 300 percent increase in these enrollments between 1960 and 1975 -- a projection that seriously underestimated enrollments in 1975, even without taking into account the proprietary sector. It was this environment that produced the statement of legislative intent, which continues in the Education Code to this day except for the two italicized words referring to youth:

> In the present period the need for educational services *for youth* is so great that it cannot be met by tax-supported institutions alone. The

contribution of privately supported educational institutions to the preservation of our liberties is essential. These can best be served by protecting the integrity of diplomas issued by such institutions.

As an expression of State concern for the oversight of private postsecondary education, the 1958 act was a curious piece of legislation:

- It was clearly inclusionary, in that every effort was made to include every category of licensure (including "State accreditation") in the six categories of institutional qualification. One result was that the terms *authorization, approval, and accreditation* were all used without either an explicit or implied hierarchical structure.
- It reflected an effort to strengthen the compliance authority of the Superintendent by providing a basis for prosecuting the fraudulent issuance of diplomas, but at the same time it did little to ensure their integrity. It sought to eliminate the sale and misuse of college degrees, but it did not provide the means for carrying out that intent.
- It omitted not only the 1850 requirement that degree-granting institutions be incorporated and thus have corporate governing boards but also the 1927 restriction against distributing profits of profit-making degree-granting corporations except upon their dissolution and the 1927 requirement that degree-granting institutions submit annual statistical reports to the Superintendent.
- It required on-site reviews to examine the records or any other aspect of institutional operations only of accredited institutions and those approved for veterans' benefits. Not until 20 years later did the Private Postsecondary Education Act of 1977 make such visits mandatory for all authorized institutions.
- It permitted institutions to operate under Section 24206(a) even if their $50,000 in personal assets were maintained out-of-state (34 Ops. Att. Gen. 98).
- Finally, by bringing together in Division 21 of the Education Code a number of licensing procedures that had existed in a variety of codes, it did more to confuse State licensure responsibilities than to improve them. Each of the six licensing categories was very different and had been developed by different agencies for very different purposes. By placing them in juxtaposition without any apparent sense of relationship or qualitative ranking, it gave them equal status under the law -- and the impression that no distinctions were useful between "state-accredited" teacher education institutions, institutions "state approved" for veterans' benefits, and institutions "state-authorized" by the Superintendent either on the basis of their accreditation or on the basis of having $50,000 in net assets.

California was not out of line nationally with its 1958 Amendments. At the time, state regulation had relatively little influence on controlling the quality of private education except in a few regions. "It cannot be said that most states exercise even the minimum degree of control for the maintenance of educational quality among degree-granting institutions," Robert Reid concluded in his 1959 analysis for the American Council on Education. "State laws chartering institutions of higher education are not uniform and are actually quite lax in controlling educational malpractice" (1959, pp. 62, 8). A majority of the 50 states extended the privilege of degree-granting to institutions simply on incorporation, with filing fees as low as one dollar; and only a minority, including California, required incorporated institutions to be approved by a state agency such as their state department of education in order to grant degrees.

Changes in the 1960s and '70s

Throughout the 1960s and early '70s, California gradually amended its licensing statutes:

- In 1963, the Legislature added a number of prohibitions relating to false advertising in order to protect student consumers (Education Code Section 29008); it allowed institutions accredited by a recognized accrediting agency to maintain their licensed status merely by submitting an annual affidavit stating that they were accredited; and, in order to make California's law identical with federal law, it expanded Division 21 to include courses for adults related to education, vocational, and professional objectives -- thus making all institutions meeting State requirements eligible for federal approval for veterans' training.

- In 1969, the Legislature passed Senator Albert Rodda's Senate Bill 1244, which (1) directed the Board of School Approvals to publish an annual directory of licensed private schools, and (2) required authorized degree-granting institutions to file "full-disclosure" statements as well as have $50,000 of assets.
- In 1971, Senator Rodda and then Assemblyman Bill Greene sought through Senate Bill 1574 to establish an independent "Council on Private Postsecondary Educational Institutions" to administer Division 21, but the bill was vetoed by Governor Reagan. The following year, through Assembly Bill 2265, Rodda and Greene got the Council established as an advisory body to the Superintendent, but with no administrative responsibility or direct staff support.
- In 1974, three bills made minor changes in the law requiring permits of agents, regulating private school advertising in "help wanted" columns, and specifying the language of contracts between private institutions and their students. In addition, Senate Bill 355 (Biddle) directed the newly created California Postsecondary Education Commission to develop a complete listing of all institutions operating in the State; provide information about the numbers of students being served, the programs offered, the fees charged, and the rates of student attrition; and assess the operation and effectiveness of the Education Code sections relating to private postsecondary education in terms of protecting consumers and providing a strong private sector for California citizens.

As the Postsecondary Education Commission began its study of the Education Code in response to that mandate, several related events impinged on it:

- In 1973, the Education Commission of the States had drafted model state legislation for approving academic institutions. It recommended that every state (1) protect against "substandard, transient, unethical, deceptive, or fraudulent institutions," (2) prohibit the granting of "false or misleading educational credentials," and (3) restrict the use of the labels *college* and *university* by empowering a state agency to grant approval to institutions for no more than two years, issue cease and desist orders against detrimental practices, and, if necessary, revoke the authority of an institution to operate. This model legislation proposed that the state agency should be authorized to hear complaints against individuals for violating its regulations, award restitution where warranted, and seize and preserve students' academic records from any institution that closed or was forced to close.
- Another series of scandals involving overpayments to veterans was arising from the Vietnam War, with overpayments increasing from some 3 percent of total benefits in 1972 to 16 percent in 1976, and with public institutions -- particularly two-year colleges -- involved along with private ones. A House Appropriations Committee reported that "the VA left it up to the veterans and the institutions to report changes and terminations; but it was not in the interests of either to do so" (Orlans and others, 1979, 29-30). The federal government led the way in requiring reform, and California grudgingly followed.
- Issues of consumer protection as well as fiscal accountability and institutional quality came to the fore, propelled by federal concerns for the proper and productive use of public funds. The Federal Trade Commission held extensive hearings on private postsecondary institutions to determine the extent of student protection in terms of tuition refunds: and the federal Office of Education raised questions about the ability of accrediting agencies to serve the interests of students as well as institutions -- and whether other means were needed for student protection.

The Commission drew on these developments in its 1976 report, *The Role of the State in Private Postsecondary Education: Recommendations for Change*. In that report, it examined three major issues: (1) the lack of consumer-protection provisions in State statutes; (2) the ineffective enforcement of compliance with these statutes; and (3) the problems inherent in the State's reliance on accreditation as a measure of institutional quality and probity. It studied tuition refund problems, abrupt school closures, and the lack of effective procedure for handling student complaints; and it concluded that:

- California's laws relating to private postsecondary education were among the oldest in the nation and lacked a number of consumer protection provisions.
- California was unique among the states in funding the operation of its State oversight agency solely through school licensure fees and federal Veterans Administration money.
- Compared to the model legislation developed by the Education Commission of the States, California lacked any comprehensive efforts to provide consumer protection, particularly in regard to schools that closed in mid-term, while students had already paid their tuition for the year, and in regard to inequitable refund policy among schools.
- Loopholes existed in the "$50,000" provision of Education Code Section 94210 that permitted unscrupulous school owners to operate. California's "open door" concept of State oversight permitted educational innovation, but it was wide open for owners interested in making money rather than in providing quality education.
- The Bureau of School Approvals in the Department of Education suffered major deficiencies in administering the law because of its limited budget and its secondary role within the Department of Education. It was not responsive to the needs of students or school administrators, and it lacked aggressive enforcement of existing regulations and centralized responsibility for the licensure and oversight of private institutions.

As a result, the Commission recommended that the Legislature "undertake a complete revision of both Division 21 and the process by which it is implemented and administered" in order to "promote the integration of private institutions (particularly vocational/technical schools) into California's postsecondary education system; provide an appropriate regulatory agency that is responsive to the needs of both the producer and consumer of private education; and foster and improve the educational programs and services of private institutions while protecting the citizens of California from fraudulent or substandard operations" (p. 118).

The five specific revisions in Division 21 that the Commission proposed are reproduced in Display 3 on the opposite page. They were cast into Assembly Bill 911 of 1977 -- the "Private Postsecondary Education Act of 1977," which was authored by Assemblyman Dixon Arnett and supported by some of the major leaders of private postsecondary education.

The 1977 Act and its amendments

Assembly Bill 911 continued from the 1958 Amendments the division between "accredited," "approved," and "authorized" institutions, but it increased standards of practice for authorized institutions, added a list of 14 categories of information to be included in institutions' affidavits of full disclosure, and required "verification visits" to ensure the accuracy of this information.

- It also created a series of minimum advertising and consumer protection standards applicable to all private institutions, although it deemed accredited institutions to be in compliance with them.
- It gave the Superintendent of Public Instruction more authority to refer complaints about accredited institutions to their accrediting agencies.
- It increased the requirement for establishing an authorized institution, providing that the dedication of assets for an educational institution must be bound to the institution and its valuation must be independently verified (Brown, 1987, p. 345).

As introduced, AB 911 proposed moving the oversight responsibility for private postsecondary education from the Department of Education to an independent governing board that would have been equivalent in status to the Board of Governors of the California Community Colleges and adequately staffed to license and oversee private postsecondary institutions. Superintendent of Public Instruction Wilson Riles objected to this part of the bill, however, and to the Commission's report that proposed it: "The report's pervasive rationale for change is a series of assertions that the Department of Education is not adequately administering private postsecondary education. In this respect the report fails to meet the standards of objectivity and professionalism which the Legislature has come to expect from its advisory committees and commissions." He recommended "that the administration of this

DISPLAY 3 ***Recommendations of the California Postsecondary Education Commission Regarding Oversight of Private Institutions, 1976.***

1. The current responsibilities of the Bureau of School Approvals should be transferred to the Council for Private Postsecondary Educational Institutions. The Council should become an administrative agency directly responsible to the Legislature and the Governor. Members on the Council should be appointed by the Legislature and the Governor, with a predominance of public members over representations from the private institutions. The Council should be completely independent of the Department of Education. The Council should meet as often as it deems necessary to carry out its duties and responsibilities. The Council should appoint and may remove a director, and the director should appoint persons to such staff positions as the Council may authorize.

2. The activities of the agency responsible for administering Division 21 should be funded through the State's General Fund as well as through reimbursements from licensure fees.

3. The "A-3" provision for degree granting institutions should be revised so that: (a) The "full disclosure" requirement is considered the major element in each institution's application for authorization to operate. This provision should be revised so that the State can verify the accuracy of the "full disclosure" statement prior to the opening of the institution, and every three years thereafter. (b) The loopholes in the $50,000 requirement should be eliminated. An institution should be required to maintain $50,000 in total net worth, to be used exclusively for legitimate educational purposes. Each institution should be required to file a financial statement certified by a Certified Public Accountant with the initial application, and every three years thereafter. This $50,000 in assets should be maintained in California for as long as the school is licensed to operate in the State.

4. Several important consumer protection provisions should be added to the Education Code, including (a) the development of a statewide student tuition indemnification plan; (b) a tuition refund schedule directly proportionate to the amount of the course completed, until the student has completed 50 percent of the course; (c) a six-day cooling-off period following the initial visit to a campus by a student who has signed a contract and began tuition payments prior to visiting the campus; (d) a central agency for handling student complaint; (e) permanent maintenance of student records; and (f) complete disclosure of information to students by all private postsecondary institutions.

5. While the State may use accreditation as evidence of compliance with its minimum educational standards, the State should not abrogate its responsibility by using accreditation as a substitute for independent review and action. Accordingly, the Education Code should be revised to clearly indicate that, while the State may accept accreditation by a recognized national or regional agency as evidence of the institution's conformance to the minimum standards as set forth by the State agency, the use of this accredited status is permissive, not mandatory, and the State agency may require additional evidence or may undertake its own investigation if it so desires.

Source: California Postsecondary Education Commission, 1976, pp. 119-120.

Division remain in the Department, as the most feasible and expeditious way of achieving necessary legislative, policy and administrative changes desired (1976, p. 1).

The Assembly Ways and Means Committee agreed with Riles and deleted the proposed move. It substituted a sunset date for the law of June 30, 1982, and charged the Commission and the Legislative Budget Committee to undertake a review of its operation. Superintendent Riles promised to work with the Legislature and all other interested parties to develop legislation and prepare budget actions "to obtain general funding in support of Bureau activities" as well as "broaden the responsibilities, provide for broader public involvement, and improve the functioning of Council for Private Postsecondary Education Institutions" and "strengthen the activities and administration of the Bureau to the benefit of both consumers and the industry." But neither Superintendent Riles nor his successor has succeeded in obtaining the promised general funding for the Bureau's activities.

As required by the Legislature, in 1981 the Commission reviewed the effectiveness of the 1977 act. It concluded that the law was not yet strong enough to ensure that the Legislature's objectives of quality and integrity would be sought by all of the State's authorized institutions: "The integrity of academic degrees is being threatened by the educational program offered by some of the authorized institutions . . . which award degrees based either primarily or solely upon life experiences, with little or no instruction offered" (p. 11). The Commission stated that "those institutions which award degrees without offering instruction are not functioning as educational institutions," and it proposed that instruction be required as a part of each degree program -- thereby preventing institutions from granting degrees solely on life experience or credit for prior learning. It also suggested that all authorized institutions, within five years of gaining authorization, be required to apply for and gain status as State-approved institutions.

Opposition to this second recommendation led to compromise legislation (Senate Bill 612, 1981, Sieroty) that directed the Council for Private Postsecondary Educational Institutions to impanel a special committee to "develop explicit standards to be used in the review and authorization of private postsecondary institutions." In November 1982, the special committee issued its report; in January 1983, the Commission endorsed its standards; and in 1984, Senator Watson's SB 2151 placed these standards in Education Code Section 94304.5 and moved the sunset date of the 1977 law to 1992, with the Commission to study its adequacy and its implementation.

That same year, Senator Carpenter's SB 1923 shifted State approval from "programmatic" to "institutional" by requiring that the total institution meet standards of approval rather than merely selected programs. It also added language from existing regulations regarding the comparability of accredited and State approved institutions.

In 1985, Senator Montoya's SB 1036 added new provisions for licensing out-of-state accredited institutions by December 31, 1987.

In 1986, Assemblyman Farr's Assembly Bill 4251 implemented recommendations stemming from Senator Montoya's SB 1036.

In 1988, Teresa Hughes' Assembly Concurrent Resolution 78 directed the Commission to study the operations and procedures of accrediting associations that accredit California's postsecondary institutions as well as the State's reliance on these associations. Her Assembly Bill 4378 extended authorization requirements to recruitment agencies and required authorized or approved institutions to cease recruitment activities if the Superintendent takes action to revoke or deny their authorization. Senator Morgan's SB 1884 gave the Superintendent the authority to revoke the license of an accredited institution if it did not comply with minimum State standards and if its accrediting agency did nothing about its non-compliance (Section 94312(*l*)). And Assemblyman Frizzelle's AB 3844 turned the licensure of driving schools that train truckdrivers from the Department of Motor Vehicles to the State Department of Education.

Origins of the present study

According to the Private Postsecondary Education Act, by September 1, 1989, the Postsecondary Education Commission must "review and evaluate" the implementation of the entire act by the Department of Education as well as the effectiveness of the Act's approval and authorization provisions "in protecting the integrity of degrees and diplomas issued by private postsecondary educational institutions" (Education Code Section 94345). Unless the Legislature extends or repeals the sunset provisions of the act, the act will become inoperative on June 30, 1991 and will automatically be repealed on January 1, 1992.

During 1987, the Postsecondary Education Commission began work on its required study of the law. The year before, the Commission for the Review of the Master Plan for Higher Education had asked Jonathan Brown, vice president of the Association of Independent California Colleges and Universities, to prepare a paper on State licensure and accreditation. In that paper, he suggested that the Master Plan Review Commission consider recommending various amendments of the 1977 act to the Legislature or, as an alternative, recommend that the California Postsecondary Commission consider them in its review of the act. In its final report, *The Master Plan Renewed*, the Master Plan Review Commission adapted his second recommendation into these words (1987, pp. B-1, B-2):

> The California Postsecondary Education Commission should begin its statutorily mandated review of existing standards and the appropriate administrative structure for state supervision of private postsecondary institutions by no later than 1988.
>
> In convening its review, CPEC should specifically consider consolidation of the "approved" and "authorized" categories of licensure for non-accredited degree-granting institutions; prohibition of non-accredited institutions from operating in the state; establishment of a single process of licensure for all private institutions; modification of existing statutory language to delete references to comparability between approved and accredited institutions; prohibition of non-accredited institutions from granting degrees beyond the baccalaureate; establishment of a hierarchy of licensure in which institutions would be required to move to accredited status within a stipulated period of time; establish the Council for Private Postsecondary Educational Institutions and the Private Postsecondary Education Division as an entity separate from the State Department of Education; and restructure the membership of the Council for Private Postsecondary Educational Institutions to provide a majority of lay citizens without current or prior employment or business connections to private postsecondary institutions that fall under the Council's jurisdiction.

In December 1987, staff of the Commission drafted a prospectus for the review of the 1977 act under the title, *The State's Role in Promoting Quality in Private Postsecondary Education*. In that prospectus, the staff identified the following nine questions as among those to be answered during the study:

1. Are California's licensure standards under the Act for degree and non-degree granting institutions sufficiently rigorous to protect the integrity of degrees and diplomas issued by private institutions?
2. Are the oversight procedures currently used by the Department of Education sufficiently detailed, rigorous, and frequent to achieve this legislative intent?
3. Does California need five different processes for the licensure of degree-granting institutions and four different processes for vocational schools?
4. Should several State agencies continue to share the responsibility for licensing private vocational schools?
5. Should the State licensure process for degree-granting institutions continue to be restricted to the in-state operations of these institutions?
6. Does the State interest in promoting quality in private postsecondary education warrant the allocation of some State funding to support the oversight activities of the agency responsible for licensing these institutions?
7. Is the State Superintendent of Public Instruction the proper entity for primary responsibility in licensing private colleges and universities and promoting quality in private postsecondary education?
8. What is the distinction between accreditation and State approval, and how can the differ-

ences be clarified for members of the public who are selecting institutions in which to enroll?

9. What is the appropriate relationship between the State's oversight agency and non-governmental accrediting associations in the delegation of responsibility for the review and monitoring of accredited colleges, universities, and vocational schools?

The Commission decided to answer Questions 8 and 9 regarding accreditation as part of its study of the State's reliance on institutional accreditation that it was conducting pursuant to ACR 78 (Hughes, 1987) and to incorporate the findings of that study into its final report on State oversight of private postsecondary education, *Recommendations for Revising the Private Postsecondary Education Act of 1977*, which it plans to issue this next June.

To assist in its review of the act, the Commission appointed a technical advisory committee consisting of the following representatives of these groups:

Institutions

State-approved institutions
Rosemary Lukton, California Institute for Clinical Social Work, Berkeley
Thomas A. Neal, President Emeritus, California Coast University, Santa Ana

State-authorized institutions
Philip Forte, President, Pacific Western University, Los Angeles
Ronald Isles, President, Southern California College of Law, Brea

Accredited nondegree-granting institutions
Kristin Kleppe, President, Banking Institute, Los Angeles
Aaron Cohen, President, United Education & Software, Encino

Accredited degree-granting institutions
J. Robert Evans, President and Director, Kelsey-Jenney Business College, San Diego

Associations

Accrediting Commission for Junior and Community Colleges, Western Association of Schools and Colleges
John C. Petersen, Executive Director

Accrediting Commission for Senior Colleges and Universities, Western Association of Schools and Colleges
Ralph A. Wolff, Associate Executive Director

California Association of Private Postsecondary Schools
Catherine Sizemore, Legislative Representative

California Association of State Approved Colleges and Universities
Alvin P. Ross, President

The Commission's Statutory Advisory Committee

Association of Independent California Colleges and Universities
Jonathan Brown, Vice President

California Community Colleges
Gus Guichard, Senior Vice Chancellor for Planning and Special Projects

California State Department of Education
Joseph P. Barankin, Assistant Superintendent of Public Instruction and Director, Private Postsecondary Education Division

The California State University
David E. Leveille, Director of Institutional Relations, Office of the Chancellor

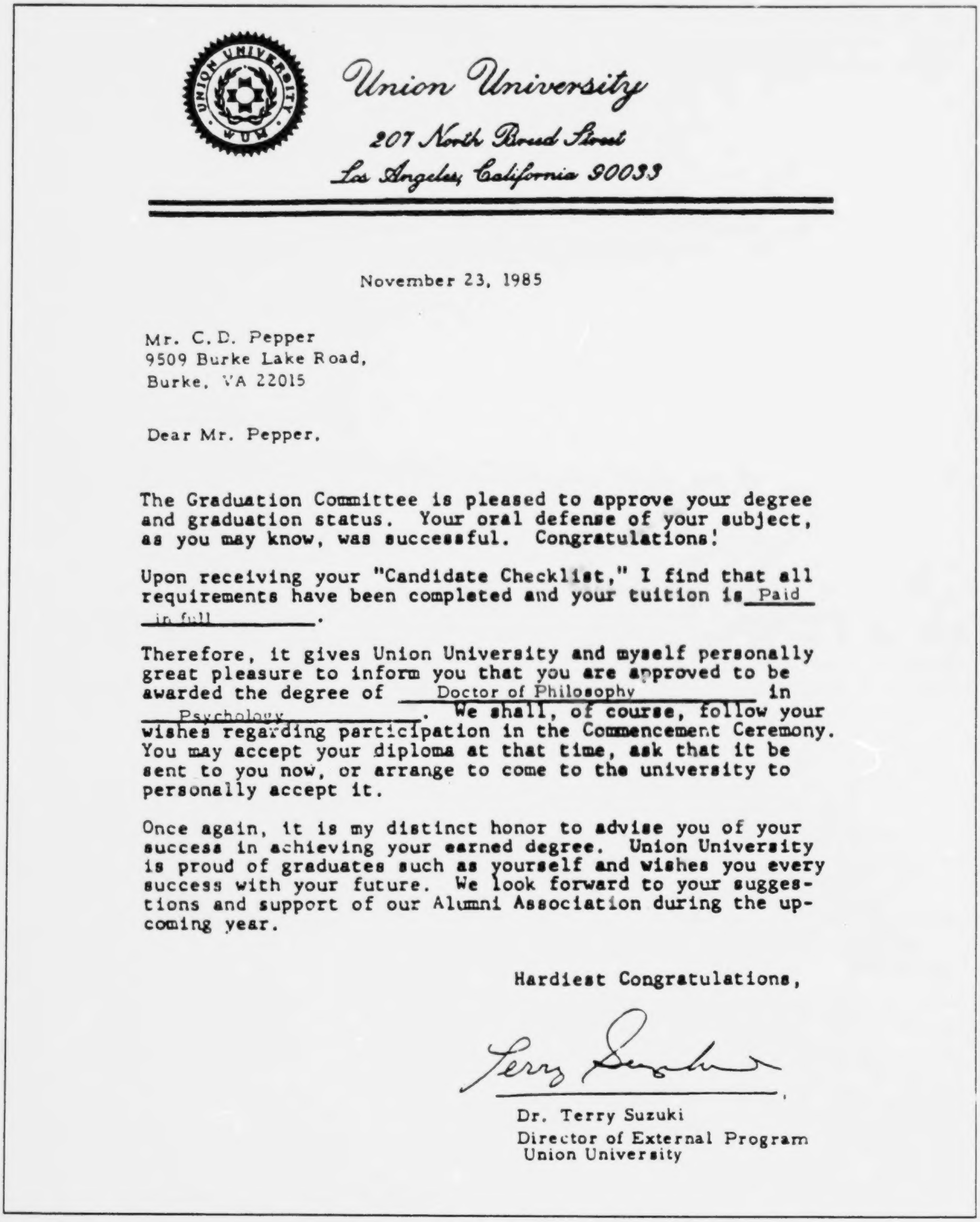
University of California
Karen Merritt, Director, Planning and Program Review, Office of the President

Council for Private Postsecondary Educational Institutions
Roseanne M. Martinez, Sacramento

Other knowledgeable individuals

Richard Baiz, Deputy Director, Executive Office, California Department of Consumer Affairs, Sacramento
John D. Murphy, Senior Vice President, Institutional Affairs, University of Phoenix, San Francisco, California
Robert White, Vice President, National University, San Diego

These individuals and the staff of the Private Postsecondary Education Division of the State Department of Education have provided much assistance to the Commission staff in the preparation of this report. Even though some of them disagree with some of its conclusions in the following pages, they have improved its quality; and their advice will help shape the Commission's ultimate recommendations regarding the future of the law.



Union University
207 North Broad Street
Los Angeles, California 90033

November 23, 1985

Mr. C.D. Pepper
9509 Burke Lake Road,
Burke, VA 22015

Dear Mr. Pepper,

The Graduation Committee is pleased to approve your degree and graduation status. Your oral defense of your subject, as you may know, was successful. Congratulations!

Upon receiving your "Candidate Checklist," I find that all requirements have been completed and your tuition is Paid in full.

Therefore, it gives Union University and myself personally great pleasure to inform you that you are approved to be awarded the degree of Doctor of Philosophy in Psychology. We shall, of course, follow your wishes regarding participation in the Commencement Ceremony. You may accept your diploma at that time, ask that it be sent to you now, or arrange to come to the university to personally accept it.

Once again, it is my distinct honor to advise you of your success in achieving your earned degree. Union University is proud of graduates such as yourself and wishes you every success with your future. We look forward to your suggestions and support of our Alumni Association during the upcoming year.

Hardiest Congratulations,

Dr. Terry Suzuki
Director of External Program
Union University

DISPLAY 4 Source: Stewart and Spille, 1988, p. 77.

3

Importance of the Law

IN 1985, Representative Claude Pepper (D-Florida) -- the 85-year-old chairman of the Subcommittee on Health and Long-Term Care of the House Select Committee on Aging -- received a Ph D. from Union University in Los Angeles, one of California's State-authorized institutions that has since gone out of business. For the degree, his staff had sent Union $1,810, a list of 44 books read, and four book reports -- on *Mental Health and the Elderly; Too Old, Too Sick, Too Bad; Plain Speaking;* and *The Power of Positive Thinking*. In accepting his degree, Chairman Pepper confessed, "I have always wanted to be Dr. Pepper" (Stewart and Spille, p. 76).

Union University no longer exists -- at least in California -- thanks to changes in California's law since 1984. The following pages explain why it closed, in explaining the importance of meaningful degrees and then assessing the strengths and weaknesses of the present law.

Importance of meaningful degrees

Most Americans expect a college degree to *mean* something. Despite their increasing cynicism of many social institutions, they want a degree or diploma to indicate intellectual competence and skill -- and at a level beyond that of writing four book reports.

- They expect their own educational efforts and achievement to be honestly recognized.
- They want the educational attainment of other people to be equally rewarded.
- They hope that doctors, nurses, and other people who treat them will be knowledgeable and that the diplomas hanging in professional offices will truthfully signify this knowledge.
- They hope that engineers know what they're doing in designing and building the planes they fly, the cars they drive, the bridges they cross, and all the other technological advances on which they rely.
- They hope that in the courts of law, "expert" witnesses about professions, planes, cars, bridges, technology and every other subject *really* are expert.

That is why California seeks to "protect the integrity" of California degrees and diplomas -- to protect their honesty and soundness against deceit or fraud. It is why the State has made it illegal for anyone to print, sell, or use fraudulent, counterfeit, or materially altered degrees (Appendix B, pages 89-90). And it is why nearly every other state in the nation seeks to do the same.

As America at large and California in particular become more populous, more urban, and more technological, individuals must increasingly rely on academic degrees as documents that certify at least minimal academic or professional attainment. When they need skilled assistance -- whether from therapists, nutritionists, or even "holistic health scientists" -- they often do not have the opportunity to check personal references or call mutual acquaintances. They must depend instead on the validity of educational and professional certificates. All too often, they cannot depend on these documents. For example, according to Congressional testimony, in the early 1980s as many as 10,000 American medical doctors, or one in every 50, were practicing with questionable or fraudulent credentials (Stewart and Spille, 1988, pp. 13-14).

In California, a major social problem exists with unskilled practitioners of personal counseling and therapy. Rosemary Lukton, the former dean of Berkeley's California Institute for Clinical Social Work -- a State-approved institution -- says that "In my field, people can claim they are therapists with a Ph.D. from anywhere in anything. You can't say that you are a "psychologist," a "psychotherapist," or a "marriage, family, and child counselor" -- but you can call yourself a "therapist." So patients get taken by Ph.D.s, along with employers." Yet when

California's Board of Behavioral Science Examiners asked another of the State's approved institutions about some of its graduates' coursework that State law requires them to take in order to apply for the Board's licensing examination, the university not only refused to provide the documents but hired a lobbyist to get the Legislature to cut the Board's budget and delay appointment of its members. Nonetheless, the Board is continuing to require the prescribed coursework.

Despite the concern of some social critics about "credentialism" and an "overcredentialed" society, California cannot reverse history and try to avoid reliance on academic credentials. Its citizens will make use of academic degrees and diplomas regardless of State policy. Employers will continue to use them in determining initial employment, promotion, and salary increments -- even if all too often they use them unnecessarily. And employees will need them to be considered for jobs and gain advances in their careers. Increasingly, a bachelor's degree will open doors that used to be opened with a high school diploma.

College degrees clearly have value. During this decade, for instance, an MBA has been worth $8,700 more in starting salaries than a baccalaureate in business. As a result, demand for degrees will continue. Educators will not be immune from encouraging this demand, and a few entrepreneurs will seek to meet the demand with discount degrees.

Reflecting on his creation of "Greenbriar College" in California over 20 years ago, steamfitter Anthony James Gange explained "there seems to be a crying need. People just wanted to get fleeced, and I wanted to take advantage of the market while it was hot." Some people may want a degree just for the fun of it, but others have no wish to be fleeced.

- For example, in 1987, Candace L. Howell, who is stationed with the Armed Forces in Munich, West Germany, enrolled in a combined bachelor's-master's degree program of "LaSalle University" -- a nationally known degree mill that was operating an office at Suite 102, 9410 Topanga Canyon Boulevard in Chatsworth. She paid LaSalle over $2,500 for tuition, fees, and books, only to receive the wrong books. After she complained from Europe, received no new books, and finally asked for a refund, Jean Christensen of LaSalle's Student Services office in Chatsworth informed her that she had "deactiviated" Ms. Howell's file "from our student roster." LaSalle kept her money and has since closed its Chatsworth office.
- In 1983, Art Boehm of Sacramento responded to an advertisement for a State-approved university and enrolled in its bachelor's program. Over the next five years, he spent $4,000 in working with a local faculty member on his bachelor's degree, another $4,000 on his master's degree in psychology, and $8,500 on his Ph.D. Since then, he has been unable to get the university to send him a transcript of his Ph.D. work, and his advisor delayed so long in starting him on the 3,000 hours of supervised counseling needed for a license in marriage, family, and child counseling that Boehm doubts he will ever get his license -- since he has had to return to construction work to repay his student loans and retain his credit rating.

Felix Robb, the former executive director of the Southern Association of Schools and Colleges, has said that many people like Howell and Boehm "are trapped financially - familywise and otherwise -- by the inability to take time off for residence requirements in traditional programs of established universities. They are looking for a shortcut, but they don't know how short the cut can be between something honorable and legitimate and something that lacks integrity." And American students may not be the most numerous victims. Ellsworth Miller says that degrees advertised in English language newspapers prove "a real pitfall for ambitious third-world youth looking for a chance to better themselves," based on his experience on the staff of the American Embassy in Saudi Arabia (Stewart and Spille, 1988, p. 177).

Consumer protection regarding academic degrees has long been a problem both in the United States and abroad. But California's problem of consumer protection has been especially exacerbated because of its wave of immigration from Mexico and Asia during the 1980s. As of 1980, 15 percent of Californians were foreign born. This percentage has grown since then. Between 1980 and 1986, some four million foreign-born persons were admitted as legal residents to the United States, and many more came as undocumented aliens -- a large number of them settling in California. As a concomitant, the

State's percentage of residents who do not use English in the home or speak it well has also increased beyond the 5 percent level recorded in the 1980 Census.

California's immigrants want to succeed in American society, but like immigrants at any time in any society, they are more susceptible to being taken than long-term residents. Those who seek academic degrees as a means of success may not realize that some degrees are worth more than others in gaining advancement and that others may be worthless. For example, they are less likely than most Californians to know the difference between "accredited," "State-approved," and "State-authorized" colleges and universities, or between these recognized institutions and illegitimate ones. They also may not be aware that some employers differentiate among these institutions.

- They probably are unaware that if they want to become teachers, they will not be eligible to receive a teaching credential if they graduate from an unaccredited institution.
- If they want to join the federal civil service, they will need a degree from an accredited institution.
- If they want to be lawyers, they may not be able to practice law in another state if they attend a California law school accredited only by California's Committee of Bar Examiners rather than by the American Bar Association.
- If they want to become psychologists or counselors, they will not be eligible to take the professional licensing examinations of California's Psychological Examining Committee or its Board of Behavioral Science Examiners unless they graduate from an accredited institution or a State-approved institution that offers a recognized psychology program.
- And if they need financial aid to attend college, they may not know that both the federal and California state governments restrict their student aid to students of accredited institutions.

If California's foreign-born population were not growing and were less vulnerable to educational abuse than it is, California might conceivably take the libertarian view that its citizens should not be prohibited from making fools of themselves by buying whatever diplomas and degrees they desire. But because of this demographic fact of immigration alone, if not for the protection of California's educational reputation throughout the rest of the country and the world, as well as the protection of its best non-accredited institutions, the State has a responsibility to see that its mechanisms of educational quality control actually ensure a minimum level of quality -- and that its means of student consumer protection actually protect students.

Maintenance of integrity

Like quality assurance in any enterprise, the maintenance of integrity or honesty of California's degrees involves three essential elements:

1. Standards to be maintained -- whether termed *goals, aims, objectives, intentions, criteria,* or *regulations;*
2. Monitoring of performance -- whether called *assessment, evaluation, review, examination, study,* or *critique;* and
3. Controls to assure achievement -- whether labeled *oversight, decisions, actions, closure, enforcement,* or *withdrawal of recognition.*

Until this past decade, California suffered weaknesses in all three of these elements in regulating its degree-granting institutions.

- It employed inadequate standards for authorization.
- Except for veterans' education course approvals, it conducted insufficient monitoring, with on-site visits restricted to verifying the accuracy of institutional statements.
- And it enforced few controls in terms of denying or removing licenses of inadequate institutions.

For instance, it required that institutions have only $50,000 in net educational assets -- compared to $500,000 of permanent endowment, as Pennsylvania demands; and it relied exclusively on accrediting agencies for checking the quality of off-campus degree programs offered in the State by out-of-state accredited institutions. Obviously no state can rely on accreditation alone to protect the value of academic degrees. Accreditation is voluntary, and thus non-accredited institutions will always exist.

Even those states that expect all of their institutions to become accredited -- including Colorado, North Dakota, and Texas -- grant provisional licenses to new institutions while they prepare for candidacy. Thus government regulation at both the federal and state level is a necessary means of protecting the value of degrees.

Government regulation differs significantly from other quality control measures for higher education such as accreditation, comparative ratings of institutions, admissions standards of graduate and professional schools, and entrance requirements for the professions and employment in general, in that it sets *minimal* standards for institutional conduct by specifying an elemental level of quality beneath which educational endeavors are deemed detrimental to the citizenry and thus illegal. In contrast, accreditation, admission prerequisites, employment requirements, and other quality control standards set the going rate for institutions that seek standards above the minimum level.

In the federal government, several agencies are involved in educational regulation:

- The Postal Inspection Service of the Postal Service and the Criminal Investigative Division of the FBI investigate allegations of mail fraud and bring suit in federal courts against proprietors of fraudulent institutions doing business through the mails whenever aggrieved students lodge complaints. For instance, the FBI organized its "Dipscam" operation in the 1980s, which brought indictments and, finally, guilty verdicts, against Norman Bradley Fowler and others, who operated degree mills and fictional accrediting agencies out of Los Angeles and Chicago.
- The Federal Trade Commission investigates deceptive trade practices in correspondence education and proprietary schools, and it issues cease and desist orders against institutions that divert substantial trade unfairly from competing schools through misrepresentation of status, programs, facilities, fees, or the employment opportunities and earnings of their graduates.
- The Department of Education plays an indirect but significant role in regulating educational institutions through its recognition of voluntary accrediting agencies and state approval agencies.
- The Veterans Administration conducts annual field reviews of postsecondary proprietary vocational schools in collaboration with state approval agencies but does not itself undertake institutional evaluation.
- The most directly involved is the Federal Aviation Agency, which "certificates" aviation maintenance technician schools as part of its function of maintaining minimum safety and operational standards in the civilian aviation industry.

Much of this federal effort involves restrictions on fraudulent trade practices and the regulation of commercial transactions such as truth in advertising, due process, and adequate tuition refund policies, rather than with the maintenance of high educational standards. Nonetheless, the federal role in the regulation of academic institutions is limited, and the federal government relies on the states for leadership in regulating these institutions. Thus last summer Secretary of Education William Bennett wrote to the governors of all 50 states, saying "I urge you to undertake a thorough review and evaluation of all your State's laws and regulations governing proprietary school licensing and operations. See if they need amendment, strengthening, or more rigorous enforcement." Similarly, the Center for Adult Learning and Educational Credentials of the American Council on Education has recommended that all states "review their laws pertaining to authorization or approval of educational institutions" and then strengthen and enforce them (Stewart and Spille, 1988, p. 187).

Some states have virtually no laws regulating private higher education -- among them, Hawaii, Idaho, Louisiana, Nebraska, and Wyoming. Some of them merely require annual "registration" of institutions without any assessment of institutional operations, and consequently are likely havens for fraudulent institutions. (For instance, Louisiana officials report that following the strengthening of California's law in 1984, some California institutions moved there.) Unlike these unprotected states, California has long had laws regulating private colleges and universities -- the major one being its Private Postsecondary Education Act of 1977. The following pages assess the adequacy and implementation of this law not only in light of Secretary Bennett's request and the American Council on Education's recommendation but in light of the law's pending termination on January 1, 1992.

Success of the law

Although strengthened greatly during the past decade, the Private Postsecondary Education Act of 1977 contains serious weaknesses as California's primary means of quality control and consumer protection in higher education.

The act has three major purposes:

- "to encourage privately supported education,"
- "protect the integrity of degrees and diplomas conferred by privately supported as well as publicly supported educational institutions," and
- "encourage the recognition by tax supported institutions of work completed and degrees and diplomas issued by privately supported institutions to the end that students may have equal opportunities for equal accomplishment and ability" (Section 94301).

In the following paragraphs, the Commission assesses the act's effectiveness in fulfilling all three of these goals.

Encouraging privately supported education

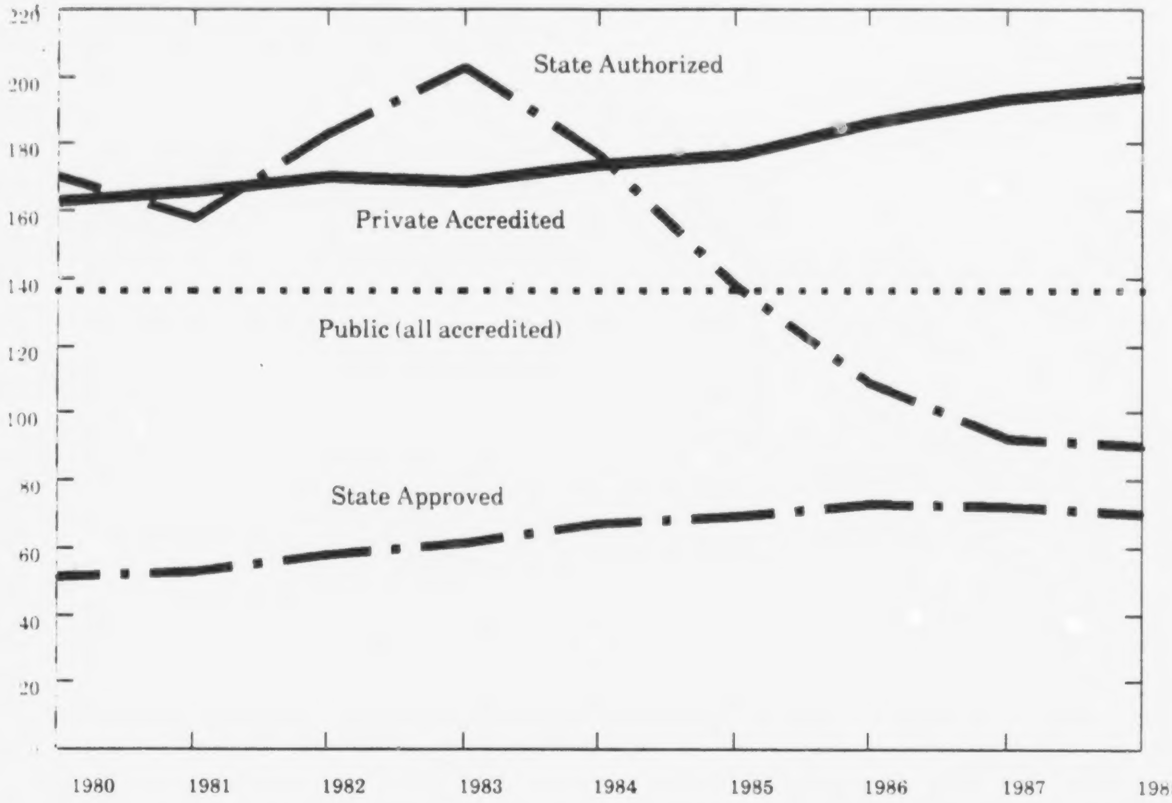
The law has succeeded most fully in fulfilling the first of its three goals -- that of encouraging private education. As Display 5 on the next page shows, several sectors of private education have expanded over this decade, while the number of public institutions has remained constant.

- The number of accredited institutions has grown from 157 to 197.
- State-approved colleges and universities have increased in number from 49 to 70, despite the fact that some formerly approved institutions have joined the accredited ranks.
- And the number of State authorized institutions grew from 158 in 1980 to 203 in 1983, although their number has dropped sharply to 78 since then. This drop stemmed not from the law's discouragement of private education but from the decision of the Council for Private Postsecondary Educational Institutions and the Legislature to discourage assessment and credentialing agencies from pretending to be educational institutions. In 1984, the Legislature adopted the council's recommended standards for authorization that have done more to encourage education in the private sector than any other statutory change of the past 30 years. Suggested by leaders of private postsecondary education themselves, the most important of these standards sought to encourage actual education rather than mere credentialing, and it led to the closing of a number of credentialing agencies, like Union University, that offered little if any instruction for their fees

As a result of the law, California has a multitude of highly regarded private colleges and universities -- both accredited and unaccredited. Among those that are not accredited are the following:

- Dharma Realm Buddhist University in Talmage -- several miles east of Ukiah -- offers academic programs in Buddhist thought and culture at the bachelor's, master's, and doctoral levels. It occupies the site and buildings of a former State hospital, from which it operates a resettlement program for refugees from southeast Asian countries, runs an elementary school and a medical and dental clinic, and has its students and faculty translate Buddhist texts from Chinese into English for publication by the Buddhist Text Translation Society. It expects its student applicants to undertake a year's apprenticeship before entering its program and to learn Chinese adequately within two years after admission in order to assist in its translation work. Rather than awarding the Ph.D. as its highest degree, it grants the more appropriate Doctor in Translation of Buddhist Texts and the Doctor in Buddhist Study and Practice.
- LaJolla Academy of Advertising Arts, founded by Gary and Tracy Cantor in 1981, offers a comprehensive communications program in advertising, graphic design, marketing, and public relations. It awards a two-year Associate in Advertising Arts and a three-year Bachelor in Advertising Arts based on courses meeting four hours a day five days a week, for 44 weeks a year. It uses practicing professionals as its faculty, employs field studies as well as classroom training for its

DISPLAY 5 Number of Degree-Granting Institutions Operating in California, by Type, 1980-1988



Note: State-authorized institutions are those privately supported that meet the State's basic standards for operation as degree-granting institutions. State-approved are those authorized institutions that have chosen to be evaluated at a second level. Private accredited institutions are those degree-granting colleges and universities that are accredtied by nationally recognized accrediting agencies. Public institutions are the California Community Colleges, the California State University, the University of California, the California Maritime Academy, and Hastings College of the Law -- all of which are accredited.

Source: Private Postsecondary Education Division, California State Department of Education.

students, and offers them lifetime career placement assistance.

- Southern California Institute of Law, organized in 1986, offers day and evening legal training at an affordable price in Santa Barbara and Ventura. It emphasizes the examination of major issues of social policy from a legal perspective. Thus it includes as part of its required curriculum courses in jurisprudence, the lawyering process, alternative dispute resolution, and international law; and it seeks to offer electives on immigration law, law and medicine, and the president and executive power. At the end of its first four years of operation, it hopes its first graduating class will pass the bar examination at a rate at least 10 percent above the statewide rate.
- National Hispanic University in Oakland, established in 1981, provides high quality higher education programs in education and health care to students whose profession may require a multicultural or multilingual knowledge, expertise, and perspective. It seeks to meet the particular needs of Hispanic students, but it seeks students from all ethnic and racial groups. It has developed partnerships with corporate and public agencies for placement of its graduates. Having

obtained State approval, it has been granted eligibility for candidacy for accreditation by the Senior Commission of the Western Association of Schools and Colleges and is proceeding toward candidacy.

- California Pacific University in San Diego was established in 1976 to train professional managers who are capable of exercising leadership in a variety of settings -- public as well as private, who are skilled in the theoretical, analytical, and human resources areas of management, and who respect the dignity and worth of the individuals with whom they work. It offers bachelor's, master's, and doctor's degrees only in its particular area of expertise -- business and management -- rather than trying to cover a wide variety of fields, as do some other State-approved universities.

Some of California's best non-accredited institutions may eventually achieve accreditation. Other equally good ones may not want to do so or may never be accreditable because of the specialized nature of their undergraduate program or their lack of a core full-time faculty, and California's law enables them to succeed without accreditation.

Protecting the integrity of degrees and diplomas

The Private Postsecondary Education Act of 1977 has been far less successful in its second goal of protecting the integrity of degrees and diplomas, primarily because its new authorization standards are only five years old. Unfortunately, for years to come the integrity of degrees from all of California's non-accredited institutions will remain suspect because of the thousands issued by a few institutions authorized before 1984.

Opinions vary, of course, on the success of the law in achieving this goal of protection. For instance, Frank G. Dickey -- the former executive director of the National Commission on Accrediting and a consultant during 1987 to the Department of Education -- has concluded that "the California Legislature is to be commended on its actions which place California among the leaders in the nation in terms of attention given to maintaining the integrity of postsecondary education for degree-granting programs" (p. 3).

In contrast, E. Anne Kelley, Manager of Programs for the Minnesota Higher Education Coordinating Board, says that in her experience of approving California institutions to grant degrees to Minnesotans, "California would be better off without any law at all than the present law." And David A. Young, her counterpart in Oregon's Office of the Governor, says that he hopes for

> a time when we no longer have to advise Oregon organizations mostly to discount academic degrees from "approved" California schools and altogether to disregard those from "authorized" schools. I can hope, for example, that Oregonians will no longer be able to get by mail a baccalaureate in April and a Ph.D. in October of the same year. . . . Most California unaccredited schools approved by your Department of Education evidently could not operate legally in Oregon, and many would have similar troubles in Washington (1987, p. 1).

Questions also remain within California's Department of Education itself about the meaning of degrees offered by some State-authorized and approved institutions. For example, the Superintendent of Public Instruction himself has so far rejected a request from the Council for Private Postsecondary Educational Institutions that he seek federal recognition of California's institutional approval process as comparable to accreditation because "existing regulations don't ensure the high standards of quality that approved schools should exemplify -- and which most do" (1988, p. 1).

Encouraging the recognition of credits and degrees awarded by privately supported institutions

So far, the law has not succeeded in its third goal -- that of encouraging the recognition by public colleges and universities of the credits and degrees and diplomas of all private supported institutions. Its improvements have been so recent that admissions officers on campuses of the California State University and the University of California continue to follow the policy of rejecting for transfer any credits earned at non-accredited institutions, whether State-approved or State-authorized. At the graduate-school level, they ordinarily send applications to individual departments for review, and if a department wants to admit a graduate of an unaccredited institution, it must explain its reasons to a special graduate school committee, which then decides on admission of the graduate on a case-by-case basis.

The law has been somewhat more successful in encouraging the recognition of non-accredited college degrees by employers, but not much. At the request of the Private Postsecondary Education Division, the State Personnel Board agreed on April 7, 1987, to regard degrees from State-approved institutions as equivalent to those from accredited institutions when the minimum requirements for State employment include a degree. Many private employers also recognize degrees from California's non-accredited institutions for employment and promotion purposes. But California's largest corporations do not.

In order to assess the acceptance of State-approved and authorized degrees by those firms, the Commission surveyed the use of degrees by the State's six largest private employers -- Bank of America, Hewlett-Packard, Lockheed Corporation, Northrop Corporation, Pacific Telesis, and Security Pacific Bank. Of the six, those with any formal policy tend to prefer degrees from accredited rather than State-approved or authorized institutions.

The six differ, naturally, in the emphasis they put on a college degree: Some weigh candidates' experience as far more important than their educational credentials, while -- at the opposite extreme -- others require all applicants for specific positions to be graduates of accredited institutions. But for initial employment, the three with general policies prefer degrees from accredited rather than State-approved or authorized institutions -- and four of the five with policies of reimbursing employees for in-service education will pay only for enrollment at accredited institutions:

- *Initial employment:* The three firms with policies regarding the educational background of candidates for initial employment -- Hewlett-Packard, Lockheed, and (for managerial positions) Pacific Telesis -- either prefer or require that the degree be from an accredited institution. Lockheed, for example, hires new engineers only from institutions whose engineering programs are accredited by the Accreditation Board for Engineering and Technology, Inc. -- the nationally recognized accrediting agency for first professional degree programs in engineering. In contrast to those three, Northrop makes its decision on a case-by-case basis, researching every degree and program and looking particularly closely at credit awarded for life experience, whether by accredited or non-accredited institutions.
- *In-service education:* Four of the six corporations reimburse employees for courses taken only at accredited institutions. The fifth -- Security Pacific -- reimburses employees for work toward a degree only at accredited institutions but will pay the costs of one or two non-degree-oriented courses at a State-approved or authorized institution. Northrop decides reimbursement on a case-by-case basis and reimburses employees only 50 percent of their fees, even at accredited institutions, if it believes that those institutions do not provide sufficient student-faculty contact.

This lack of recognition of non-accredited degrees among private employers probably accounts in large part for the apparent small size of non-accredited institutions. Data on privately supported institutions are incomplete, since the State does not require these institutions to supply annual statistical information to any State agency as a condition of licensure -- and some profit-making institutions consider these data to be proprietary information. But based on the information summarized in Appendix C, non-accredited private colleges and universities for which the Commission has these facts enrolled an average of less than 200 students each in Fall 1987, compared to an average of some 1,600 at accredited institutions. Similarly, the average non-accredited institution granted less than 50 degrees in 1986-87, compared to over 350 at accredited ones.

Limited recognition of the degrees of non-accredited institutions and the ineligibility of their students for government-backed financial aid also affects the total size of the non-accredited enterprise. Although generalizations are difficult to make because of limited data, California's accredited institutions probably enroll and graduate between six or seven times the number of students as its non-accredited institutions. But because more accredited institutions emphasize undergraduate study than do non-accredited institutions, their hegemony of graduate degrees is not as great. They probably grant only up to two times as many doctorates as non-accredited institutions, and only between four and six times as many first-professional degrees.

In sum, while California's non-accredited institutions outnumber both its public and accredited private institutions, the limited recognition of their degrees significantly limits their size.

Strengths of the law

From the Commission's perspective, several parts of the current law appear far more effective in protecting the integrity of California's degrees than others. Its two most effective parts -- and its two newest parts -- involve (1) the authorization of colleges and universities and (2) the licensure of out-of-state accredited institutions that operate in California.

State authorization of colleges and universities

No change in the law over the past 30 years has had more beneficial impact on ensuring the meaning of California's degrees than Senate Bill 2151 (Watson, 1984), which -- as noted earlier -- implemented standards for authorization that were developed in 1982 by a special committee impaneled by the Council for Private Postsecondary Educational Institutions. The members of that committee deserve recognition for their efforts:

Glen Balch, President, Newport University, Newport Beach;
Suzanne Berard, President, LaJolla University, LaJolla;
John Coker, Dean, Lincoln University Law School, San Francisco;
Richard Crews, President, Columbia Pacific University, Mill Valley, *Chair;*
N. C. Dalton, President, California Pacific University, San Diego;
Phillip Forte, President, Pacific Western University, Encino;
William K. Haldeman, Postsecondary Education Administrator II, California Postsecondary Education Commission;
John Humphreys, President, Humphreys College, Stockton;
Steven Kase, President, Pacific State University, Los Angeles;
James Kirk, President, Southland University, Pasadena;
Richard McKee, Director, Music and Arts Institute, San Francisco;
Melanie Moran, Director, Los Angeles Psychosocial Center, Los Angeles; and
Al Ross, President, Ryokan College, Los Angeles.

The Council for Private Postsecondary Education also deserves recognition for supporting the committee's 12 standards, which relate to institutional objectives, administrative methods, curriculum, instruction, faculty, physical facilities, administrative personnel, educational record keeping, admissions standards, scholastic regulations, graduation requirements, degrees offered, financial stability, and tuition, fee, and refund schedules.

Under this 1984 revision of the law, the Superintendent of Public Instruction may not authorize a college or university to operate and grant degrees unless he determines, by use of a three-member visiting committee, that it complies with 105 objectives that uphold these dozen standards. Prior to 1984, the Superintendent had to authorize institutions if he determined that the materials it submitted were truthful and accurate -- including a statement that it had assets of at least $50,000: a minimal requirement that is still true for authorized theological schools, as will be discussed below. Senate Bill 2151 not only instituted these new criteria, it required that already-authorized institutions be revisited under the new criteria if they sought to be authorized as colleges and universities, which precipitated the large drop in their numbers shown above in Display 5. As of last fall, 61 institutions had been authorized under these criteria, 15 had been denied, 8 were automatically terminated, and 16 had applications in various stages of review -- but at least 60 more -- including Claude Pepper's alma mater Union University -- either did not apply for reauthorization or withdrew their applications during the reauthorization process. Several of the 15 that were denied have appealed their denial, but as of yet none of them has had an administrative hearing. Until decisions are reached from those hearings, those institutions are free to continue to operate and grant degrees. Yet already the law has succeeded in improving the integrity of California's degrees.

Licensure of accredited out-of-state institutions

The second strength of the law is its new regulation of the California operations of accredited out-of-state institutions. The law has never allowed non-accredited institutions from other states to open branches in California, but until this decade it permitted accredited institutions to do so. Until the 1970s, the nation's six regional accrediting associations had not agreed on ways to evaluate off-campus branches in each other's regions, but they have been improving their oversight of these centers since then. Over the past eight years, the California Legislature has taken its own initiative regarding oversight -- most recently through Senate Bill 1036 (1985, Montoya) -- to ensure that those centers located in California operate on standards at least as high as those expected of California's own institutions.

Under Senate Bill 1036, another special committee developed these standards. It consisted of:

Dan Andersen, Associate Dean, College of Education, Brigham Young University, Provo, Utah;
Daniel Austin, Dean, College of St. Francis, Joliet, Illinois;
Carol Barnes, California State University, Fullerton;
Ralph Bohn, Senior Dean of Continuing Education, San Jose State University;
Charles Brydon, Dean, Antioch University West, San Francisco;
Edith Conn, Instructor, Ventura Community College, Ventura;
Kathy Dinaburg, Associate Dean, Union of Experimenting Colleges and Universities, Los Angeles;
William Duggan, Dean of M.A. Programs, Webster University, St. Louis, Missouri;
Mary Jane Fehr, Director of Accreditation, De Vry, Inc., Evanston, Illinois;
Janet M. Hansen, Embry-Riddle Aeronautical University, Castle Air Force Base, Merced;
Morris Krear, Consultant, Division of Private Postsecondary Education, California State Department of Education;
Sally Loyd, Associate Dean, Educational Programs and Resources, Office of the Chancellor, The California State University;
Donald MacIntyre, President, John F. Kennedy University, Orinda;
J. William May, Consultant, Division of Private Postsecondary Education, California State Department of Education;
Robert C. Miles, Director of Corporate-State Relations, Nova University, Fort Lauderdale, Florida;
John D. Murphy, Senior Vice President, Institutional Relations, University of Phoenix, San Francisco, California, and Chairperson, Accredited Out-of-State Colleges and Universities in California;
James H. Nelson, Chancellor's Office, California Community Colleges;
John H. Peterson, then Chief, Division of Private Postsecondary Education, California State Department of Education; and
John Wilkinson, Office of Military Programs, Southern Illinois University at Carbondale, Carbondale, Illinois.

The seven standards developed by this committee cover all aspects of institutional operation from governance through physical plant. Based on these standards, staff of the Private Postsecondary Education Division has developed its November 1988 *Handbook and Application for Licensure* for these branch centers and has begun site visits to the 12 currently operating in California. So far, the Superintendent has licensed five of the 12 based on these standards, while the other seven continue to operate under the "authorized" classification of Section 94310.3.

Reasons for the strengths

In both of these cases -- authorization of California institutions, and licensure of out-of-State institutions operating in California -- improvement in the law has involved (1) setting qualitative standards that are (2) assessed by on-site visits by teams of educators and State agency personnel. In 1982, neither of these requirements existed. Only those institutions that sought State approval for one or more of their programs were required to be visited in order to ensure they met State standards. Now, visits are required for all degree-granting institutions operating in California apart from those that claim religious exemption. The number of visits by Division staff has risen from only a few in 1982 to several score per year now.

As an expression of the State's responsibility for the oversight of private institutions, this increase in the number of campus visits may seem of secondary importance. Yet combined with the application of new standards for education, it indicates an important change in California's attitude toward quality assurance in higher education -- a change from a *laissez-faire* orientation to active, involved oversight.

Weaknesses of the law

Despite this clear progress, problems remain with the law's oversight of three other categories of institution -- (1) religiously exempt, (2) approved, and (3) authorized schools of theology.

Exemption for presumably religious offerings

Four of America's 50 states -- Illinois, Massachusetts, Michigan, and West Virginia -- regulate all of their degree-granting institutions and grant no exemptions to religious ones. But how to safeguard the free exercise of religion while at the same time safeguarding the meaning of academic degrees presents problems for most other states, including California. Probably no more well-known example has occurred anywhere than in Modesto, where the pastor of the Universal Life Church, Dr. Kirby J. Hensley, has ordained more than three million other ministers since 1962 and has granted untold doctor of divinity degrees for "suggested free-will offerings" of $20.

To most Americans, the promotion of academic trappings by ecclesiastical organizations is harmless enough that it raises few questions and only an occasional wry eyebrow. But now and then problems arise, as when unlicensed institutions offer programs in "pastoral counseling," with untoward results for parishioners. In such cases, the laws of most states allow "legal loopholes through which unscrupulous operators may slide," according to James R. Mingle, the executive director of the State Higher Education Executive Officers (1988, p. 3). Mingle advocates that all states review their present laws regarding religious exemption and strengthen them where necessary.

California's relevant law is codified as Section 94303(b) of the Education Code, which exempts from the provisions of the Private Postsecondary Education Act:

> A nonprofit institution owned, controlled, and operated and maintained by a bona fide church or religious denomination if the education is limited to instructions in the principles of that church or denomination, or to [nursing] courses offered pursuant to Section 2789 of the Business and Professions Code, and the diploma or degree is limited to evidence of completion of that education, and the meritorious recognition upon which any honorary degree is conferred is limited to the principles of that church or denomination.

Lacking further statutory guidance, the State Department of Education interprets this exemption as automatic upon an institution's application for exemption, unless it disapproves the application: "A completed application for exemption that is true and accurate on its face will be accepted as prima facie evidence of exemption" (Private Postsecondary Education Division, November 1980, p. 2). An institution can thereby claim exemption by the fact of its existence, without any requirement for obtaining the concurrence of the Superintendent of Public Instruction (Unger, 1985, p. 2).

During the 1970s, the Church of the Harley Davidson claimed an automatic exemption under the law because riding a motorcycle was a religious experience. It worshipped motorcycles and had as a tenet of its faith the belief that each of its members possessed intricate knowledge about its "deity" to warrant the teaching of motorcycle mechanics under the exemption. Eventually, however, the Office of the Attorney General was able to reject its claim.

In 1984 the Attorney General was able, after years of complaints, to enjoin Clayton Theological Institute from selling degrees in theology for $20 and offering to provide transcripts to its degree recipients for additional sums of money. Yet at least as recently as 1985, the University of Metaphysics and the Harvest International Bible Institute and Theological Seminary were selling degrees; and to this day, Joseph M. Kadans is issuing degrees from

"Bernadean University" of his Church of Universology, Inc., while he and the Attorney General await the outcome of a related church university case in federal court. (Kadans unsuccessfully sought State authorization for Bernadean in 1981 and was denied in 1982. Then operating the University out of an empty motel in Van Nuys, he claimed his motor home, which was parked outside, as part of Bernadean's $50,000 net assets because he used it as the University's admissions office. The State's visiting team was unable to verify this claim, however, because Mrs. Kadans was sleeping in it.)

Most recently, Feather River University at Post Office Box 1900, Paradise, California 95969, has deemed itself religiously exempt and claims that it is registered as such by the Department of Education, although the Department disputes the claim. Barry W. Creighton, a southern California physician, directs Feather River from 5463 Scottwood Road in Paradise. The University offers bachelor of arts, master of arts, and doctor of philosophy degrees in the martial arts through correspondence study and transfer of credits. It "seeks to advance the study and practice of, and achievement of recognition in, the martial arts" -- including judo, karate, kung fu, and aikido. Its bachelor's, master's, and doctoral theses may consist of a written paper or audiovisual presentation. As of 1986, it was charging Americans $20 and foreign students $100 to apply, but it was accepting checks, VISA, or MasterCard for its $1,500 tuition in its bachelor's program and its $1,000 tuition in its master's or doctoral programs.

Feather River University does not consider itself a "church" because it "does not conduct 'services' or anything akin to this strictly Western concept." Instead, it classifies itself as a "religious denomination," since practitioners of the martial arts undergo spiritual as well as physical training. Among the apparently religious courses that it was offering in 1986 were Legal Issues in the Practice of Martial Arts, Small Business Management Principles for the Privately Owned Dojo (i.e., a martial arts-related enterprise), Word Processing, and Data Processing.

Feather River has received tax exemption status as a religious organization from the California Franchise Tax Board. Yet it does not seem to meet the requirements for religious exemption that Margaret Tan -- the State Department of Education's lawyer for the Private Postsecondary Education Division -- wrote in her September 1987 opinion on the topic, which defines religiously exempt programs and indicates what institutions should do to claim exemption.

The Department is taking no action on Feather River's claim of exemption, however, because of the press of more urgent issues. The former assistant director of the Division explained the reason for seldom challenging such claims of exemption in these words: "When we have legal reasons to question and investigate, the materials submitted -- if any are submitted voluntarily -- generally require our legal office to examine them and advise us, a very costly and time-consuming act, one, which is, we might add, of the lowest priority with our legal office and the Attorney General" (Unger, 1985, pp. 1, 2).

Why institutions do not submit materials voluntarily has been stated most pointedly by G. Merle Bergman of Los Angeles, when he dared the State Department of Education and the State of California in general to try to question his Society of Fellowship's Institute of World Studies about its degrees (1984, pp. 5, 6):

> The only degrees whose integrity you are entitled to secure are those which you authorize, approve, or otherwise accredit, and you cannot do that by regulating others. Any other degrees are none of your business, and our educational efforts and degrees are not authorized, approved, or accredited by you, nor do we seek to have them so, nor do we claim that they are, and your attempt to compel us to seek your authorization, approval, or accreditation, or regulate us in any way is a gross violation of liberty . . . .
>
> If you believe that the Institute is not within its constitutional rights or if you have any evidence that the Institute has represented to anyone that it has your imprimatur, by all means take the matter to court. We welcome the opportunity to obtain a decisive statement from a court that you are exceeding your authority, as you most assuredly are. The notion that you can deny freedom of speech, association, and religion to protect some mythical "integrity" of degrees is absurd.

Clearly, California should not and cannot prohibit the free exercise of religion by the Society of Fellowship or anyone else. It obviously cannot intrude in the decision of a religious institution about what it wants to teach. But when a religious institution wants to bestow academic degrees, it chooses to take part in a long-established academic approach to human knowledge and -- whatever its special belief system -- chooses to submit to the same discipline and conventions shared by other participants in the academic community. The granting of academic degrees is clearly not a natural right but a privilege in American society -- and a privilege ordinarily restricted by California's Legislature to qualified academic institutions. California's law is deficient in automatically granting this privilege to any group that claims that it is a bona fide church or religious denomination, particularly when this privilege leads to others, such as recruiting students from overseas under federal immigration regulations on student visas.

Continued exemption of Feather River University seems particularly unfortunate because it may increasingly threaten the integrity and acceptance of the degrees of a similarly named neighboring institution -- Feather River College in Quincy: the region's two-year community college. Joseph Brennan, the president of the college, says that the similarity of names and the proximity of the two institutions "has already caused inquiries and misinformation as to the mission, goals, and validity of the educational program offered by Feather River College" (1989, pp. 1-2). Throughout the United States, potential employers of Feather River College graduates may mistakenly assume that they have majored exclusively in the martial arts.

Equation of State approval with non-governmental accreditation

California's 70 colleges and universities that are State-approved but unaccredited vary widely in scope. Two-thirds of them are single-purpose institutions that offer degrees in only one field, such as psychology, theology, or law. About 15 percent offer several degrees in closely related areas of study, while the rest offer degrees in a wide variety of subject areas. Some of them clearly rival accredited institutions in their educational attainments, and since 1972 the Western Association of Schools and Colleges (WASC) has required that its applicants for membership be State-approved rather than simply State-authorized. But the lack of general education in the undergraduate curriculum of some approved undergraduate institutions and the lack of a core of full-time faculty members at others makes them ineligible for WASC accreditation, and their ineligibility has led to pressure for the State to equate its approval with non-governmental accreditation.

Prior to 1977, institutions that sought State approval for one or another of their degree programs were required by statute to ensure only that the curriculum of the program was "consistent in quality with curricula offered by *established* institutions" (italics added). Since then, accreditation has been added to this statutory requirement. Currently, under Section 94310.2(a)(2) of the Education Code, approved institutions must demonstrate to the Superintendent of Public Instruction that "the curriculum is *consistent in quality with curricula offered by appropriate established accredited institutions* which are recognized by the United States Department of Education or the Committee of Bar Examiners for the State of California" and the courses of study for which they grant the degree must achieve their "professed or claimed academic objective for higher education, with verifiable evidence of academic achievement *comparable to that required of other recognized schools accredited by an appropriate accrediting commission* recognized by the United States Department of Education or the Committee of Bar Examiners for the State of California." Moreover, the Superintendent of Public Instruction "shall not approve an institution to issue degrees until he or she has conducted a qualitative review and assessment of, and *has approved, each program offered by the institution* . . ." (italics added).

More confusion over the integrity of California degrees has been caused by these italicized words than any others. Clearly in terms of the "verifiable evidence of academic achievement" comparable to that "*required* of other recognized schools accredited by an appropriate accrediting commission," some State-approved institutions are clearly comparable to some accredited ones. But others are just as clearly not. Basing State approval on the comparability of curricula and academic achievement between non-accredited and accredited institutions raises as many questions about the quality of California's accredited institutions as it does about its approved institutions. Moreover, the visitation and decision-making processes of accrediting agencies and the State Department of Education are so different as to themselves be non-comparable.

California is the only state in the nation that "approves" some institutions in this way, above and beyond authorizing them to grant degrees. Under John H. Peterson -- the former director of the Private Postsecondary Education Division -- the Division sought to portray State approval as equivalent to accreditation; and, as noted earlier, the Division has succeeded in convincing the State Personnel Board of their comparability. Similarly, the Council for Private Postsecondary Educational Institutions has urged Superintendent Honig to convince the United States Secretary of Education of their comparability, so that the federal government will recognize California's approval process as comparable to accreditation, thereby allowing California's approved institutions to become eligible for federal student financial aid -- and thus for State student aid as well.

For several reasons, however, this equation of State approval with accreditation seems ill-advised. Beyond the confusion it causes both within California and throughout the world, it undercuts desirable State policy of encouraging non-governmental accreditation. It also blurs the desirable distinction between State licensure on the one hand as an *essential* means of minimal education quality *control* and accreditation on the other as a *beneficial* means of quality *improvement*.

California would be on more defensible ground if it moved away from this pretense and based the meaning of approval on criteria other than the comparability of curricula and the academic achievement of graduates. For example, it could require approved institutions to demonstrate that they achieve their educational purposes successfully or make a demonstrable difference in the academic achievement of their graduates.

Some observers have suggested an even more radical change involving approval: that it become mandatory rather than optional. They suggest that California expect all authorized institutions to achieve approval within a certain number of years. Among them, Rosemary Lukton -- until recently a member of the Council for Private Postsecondary Educational Institutions and former dean of the State-approved California Institute for Clinical Social Work -- argues that authorization should be a "temporary way-station on the way to approval" (1988, p. 1). Under this approach, "approval" would become the State's minimum standard of common educational quality, preceded by a temporary or provisional licensure status for fledgling institutions.

Lack of educational standards for authorized schools of theology

When the Legislature strengthened the minimum standards for California's authorized colleges and universities in 1984, it allowed unaccredited institutions that award degrees "primarily in theology and other areas of religious study" to continue to operate under the previous standards. California's best-known theological schools are nationally and regionally accredited, but to avoid questions of State control of unaccredited ones, the Legislature created for them a new category of institutional recognition -- Section 94310.4 of the Education Code -- and required only that (1) the documents that they submit for review are accurate, including a statement of institutional assets of at least $50,000; (2) their education is directly related to theology or ministry, and (3) the titles of their degrees identify them as in theology or ministry.

Thirteen institutions have been authorized by the Superintendent to operate as schools of theology under this new section of the Code. The Superintendent grants authorization to these schools for a three-year period by having a three-member visiting team determine the truthfulness and accuracy of their documents. Only if the team finds the affidavits to be inaccurate may the Superintendent deny them authorization to grant degrees.

The Commission has no reason to believe that these institutions are not serious academic institutions. Nonetheless, the law governing them has three weaknesses -- confusion, inadequacy, and redundancy.

- *Confusion:* Institutions authorized under this section of the law are prohibited from representing "by any means whatsoever" that State has made "any evaluation, recognition, accreditation, approval, or endorsement of the course of study or degree." But because the law does not require the schools to state this fact in their publicity, most people would ordinarily assume that the State has evaluated, recognized, and endorsed them by authorizing them to grant degrees. To a prospective student, no great difference might be obvious in an institution's statement that it is authorized to grant degrees under Section 94310.4 rather than 94304.3 of the Education Code. Yet the difference is not simply academic. State authorization means entirely different things under these two sections of the Code. Thus the Commission agrees with the Division's former assistant director: "The school-of-theology statute, if it needs to exist at all, needs to be revised to include criteria for authorization that clearly relate to such institutions" (Unger, 1985. p. 2).

- *Inadequacy:* Permitting a degree-granting institution to operate with no more than $50,000 of net assets devoted to education has long been an inadequate requirement, as evidenced by the jewelry, condominiums, and recreational vehicles that institutions have claimed over the years as their educational assets. It consists of less than $1,000 in 1850 dollars -- the year California first imposed an endowment requirement. Some observers believe that, at a minimum, the Legislature should increase this requirement to $150,000; and some advocate that California should emulate Pennsylvania's requirement of $500,000 in clear endowment principal, exclusive of any buildings, equipment, or indebtedness. The Commission believes a more equitable requirement for all institutions is to expect them to have adequate financing to ensure programmatic stability. Thus an institution offering only one-year programs would need fewer resources to ensure that its students are able to complete their program than would an institution offering a three- or four-year program. Assets of $50,000 are unlikely to provide this assurance.
- *Redundancy:* Religious exemption under the law seems a more valid status than authorization for those religiously oriented institutions that do not want authorization as colleges and universities. If California retains some form of this exemption, religious institutions would lose nothing by being exempted rather than being authorized. Section 94310.4 could thereby be eliminated entirely from the Education Code.

Enforcement provisions

The Private Postsecondary Education Act has at least four weaknesses in its enforcement provisions.

Inadequate first-offense penalties

First, the act imposes a fine of no more than $500 or imprisonment in the county jail, or both, for a first offense of willful violation of its provisions, and a fine of at least $1,000 and felony imprisonment in the State prison, or both, for a second or subsequent offense (Section 34336). Its first-offense penalty is unlikely to deter potential violators.

Oregon, in contrast, has solved this problem by fining first offenders up to $25,000 -- but then giving them the alternative of signing a court statement of voluntary compliance, after which another violation automatically puts them in contempt of court and can lead to the maximum fine.

Insufficient "padlock" provisions

Second, the act does not give the Superintendent of Public Instruction the power to halt the operation of authorized institutions that are not meeting their obligations. In 1981, the law was strengthened by the addition of its "padlock" provision -- Section 94305.5 -- that allows the Superintendent to seek injunctions by local courts or law enforcement agencies to halt the operation of *unauthorized* or *unapproved* institutions until the courts can determine that their authorization or approval is unnecessary. But this provision fails to apply to *already* licensed institutions. Revocation of an institution's license involves a number of steps, estimated by the Office of the Legislative Analyst to cover a minimum of 16 to 26 months (1980, p. 29):

Procedure	*Months Involved*
Preparation of case by Division staff.	4-5
Hearing before the Council for Private Postsecondary Educational Institutions.	2-4

Division forwards the case file to Legal Office and Attorney General who drafts accusation.	6-12
Advisory administrative hearing.	3-4
Final decision by Superintendent.	1
Possible court action by institution.	--
Official revocation (injunction by Attorney General, if necessary).	--
Total elapsed months	16-26+

Noncomplying institutions can continue to operate and award degrees during this time. To shorten this process, the Legislative Analyst has suggested that the statute be changed to grant the Division the authority to revoke or deny authorization upon direction by the Council (1980, p. 31).

Lack of continuing jurisdiction

Third, the Superintendent has no jurisdiction over the proprietors of institutions if they withdraw their application for authorization or close an institution that has been denied authorization and then open it again under a different name. The reason is that the Superintendent can only revoke a license to operate -- and these individuals have no license to be revoked.

What is needed is a statute that allows for the filing and pursuing of disciplinary action after the expiration of a license -- in effect saying, "The fact that you aren't authorized to grant degrees doesn't prevent the State from seeking to protect the public against your activities."

The Office of the Attorney General offers an example of such language that provides for continuing jurisdiction which appears in the following italicized portion of Section 1297 of California's Health and Safety Code:

> **§ 1297. Effect of withdrawal of application, suspension, expiration or forfeiture on authority of state department.**
>
> The withdrawal of an application for a license or a special permit after it has been filed with the state department shall not, unless the state department consents in writing to such withdrawal, deprive the state department of its authority to *institute or continue a proceeding against the applicant for the denial of the license or a special permit upon any ground provided by law or to enter an order denying the license or special permit upon any such ground.*
>
> The suspension, expiration, or forfeiture by operation of law of a license or a special permit issued by the state department, or its suspension, forfeiture, or cancellation by order of the state department or by order of a court of law, or its surrender without the written consent of the state department, shall not deprive the state department of its authority to *institute or continue a disciplinary proceeding against the licensee or holder of a special permit upon any ground provided by law or to enter an order suspending or revoking the license or special permit or otherwise taking disciplinary action against the licensee or holder of a special permit on any such ground.*

The Superintendent of Public Instruction lacks similar continuing jurisdiction.

Conviction of officers or agents

Fourth and finally, the Superintendent must rely on Sections 18825 and 18826 of Title 5 Regulations to deny or suspend institutional authorization or approval, or an institutional officer's or agent's permit, if the holder pleads guilty or *nolo contendere* or is found guilty of criminal acts other than minor traffic offenses. The Attorney General's Office deems these regulations to be unenforceable if the individual is convicted on a plea of *nolo contendere*, since these regulations do not stem directly from statute. Courts have prohibited use of *nolo contendere* pleas without specific statutory authority in *Birnbaum* v. *Lackner* (1978) 82 Cal. App. 3d 284, and *Cartwright* v. *Board of Chiropractic Examiners* (1976) 16 Cal. 3d 762. Thus the Attorney General recommends the addition of the following language to statute from Sections 18825(e) and 18826(e) of the regulations:

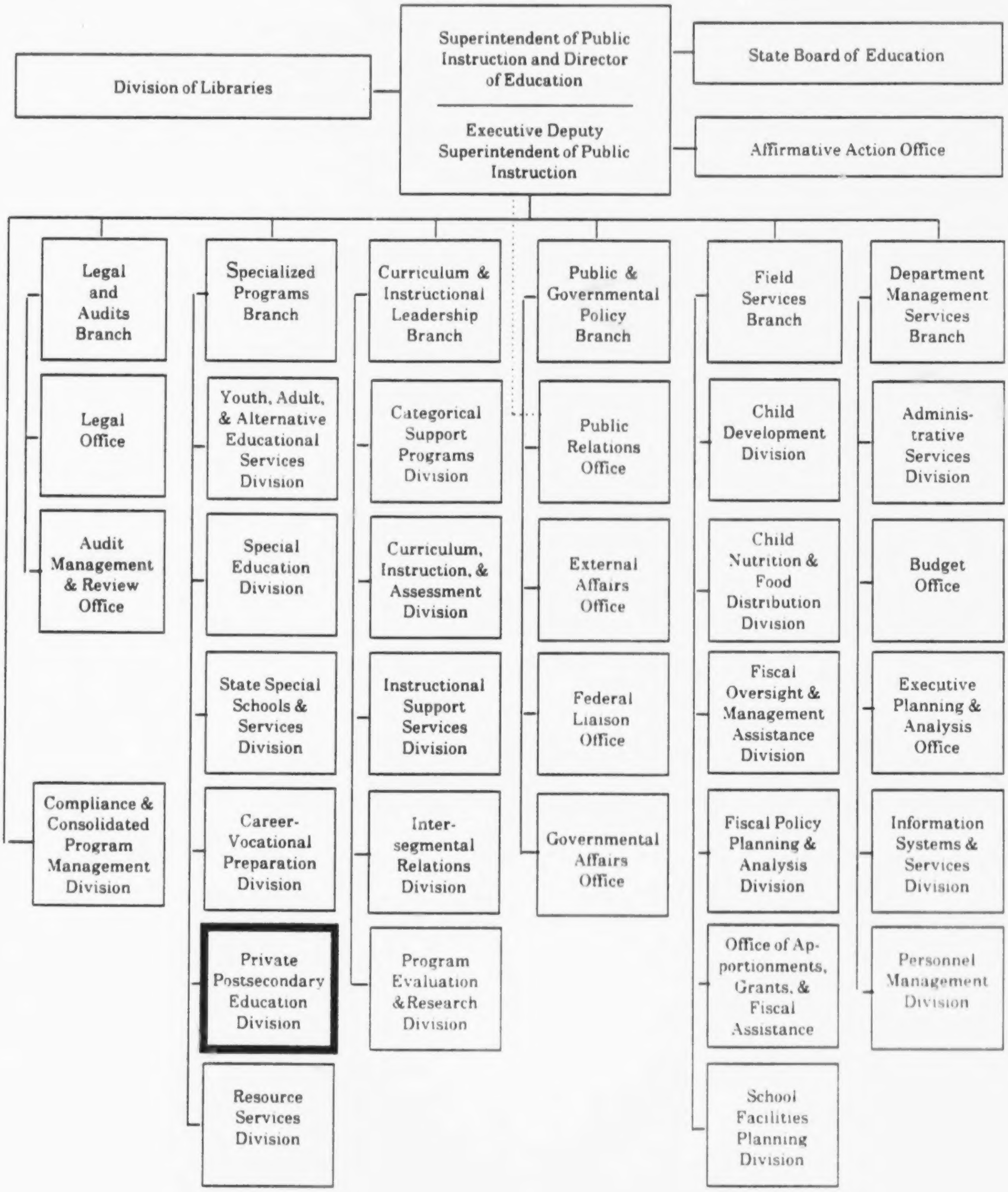
> The superintendent may suspend, deny or revoke an approval, or authorization, or Certification of Authorization for Service, whichever action is timely and appropriate, on the following grounds, as appropriate . . . .

The owner or any of the owners, member of the board of directors, officers, administrators, or instructors has pled guilty to or has been found guilty of any crime other than minor traffic offenses or has entered a plea of nolo contendere to a charge thereof, or has committed unscrupulous acts, made material misrepresentations, committed fraud, or is otherwise unfit to engage in the business of private postsecondary education, unless evidence of rehability or mitigation satisfactory to the superintendent is presented.

Any crime, act, or omission alleged as grounds for denial, suspension or revocation under this subsection must relate to the educational services of the particular institution or to the welfare of its students, or to the operation of private postsecondary institutions generally.

Conclusion

Despite the major improvements in several sections of the Private Postsecondary Education Law during this decade, those sections that deal with enforcement are unnecessarily weak, and several other sections fail to safeguard the integrity of California degrees. The two that deal with religious exemptions and authorized schools of theology fail with respect to the degrees of these institutions, while the one on approved institutions fails with respect to both approved and accredited institutions.


Superintendent of Public Instruction and Director of Education
Executive Deputy Superintendent of Public Instruction
Division of Libraries
State Board of Education
Affirmative Action Office
Legal and Audits Branch
Legal Office
Audit Management & Review Office
Compliance & Consolidated Program Management Division
Specialized Programs Branch
Youth, Adult, & Alternative Educational Services Division
Special Education Division
State Special Schools & Services Division
Career-Vocational Preparation Division
Private Postsecondary Education Division
Resource Services Division
Curriculum & Instructional Leadership Branch
Categorical Support Programs Division
Curriculum, Instruction, & Assessment Division
Instructional Support Services Division
Inter-segmental Relations Division
Program Evaluation & Research Division
Public & Governmental Policy Branch
Public Relations Office
External Affairs Office
Federal Liaison Office
Governmental Affairs Office
Field Services Branch
Child Development Division
Child Nutrition & Food Distribution Division
Fiscal Oversight & Management Assistance Division
Fiscal Policy Planning & Analysis Division
Office of Apportionments, Grants, & Fiscal Assistance
School Facilities Planning Division
Department Management Services Branch
Adminis-trative Services Division
Budget Office
Executive Planning & Analysis Office
Information Systems & Services Division
Personnel Management Division

DISPLAY 6 Source: Honig, 1988, Section 1000.

4

Implementation of the Law

CALIFORNIA'S Superintendent of Public Instruction faces a nearly impossible task: implementing the Private Postsecondary Education Act of 1977 without adequate resources to do so. As a result, a harried staff in the Private Postsecondary Education Division has had to try to implement the law as best it can, using whatever funds it could find in order to do so.

Thomas A. Neal, the president emeritus of California Coast University, places the blame for this situation not on the law but on the Superintendent: "The legislation that we have now is a deterrent to a diploma mill coming to California because it's just too much trouble. If the schools in California are not measuring up, it's the Superintendent's responsibility to make sure they do. It's that simple."

Yet California may expect too much of its Superintendents in wanting them to protect the integrity of its degrees when, of social necessity as well as political reality, its Superintendents must give priority to solving the problems of California's elementary and secondary schools.

In this part of the report, the Commission examines the implementation of the Private Postsecondary Education Act by the Superintendent and its two other major participants -- the Council for Private Postsecondary Educational Institutions, and the Private Postsecondary Education Division, which operates as a unit of the Specialized Programs Branch in the Department of Education (Display 6, opposite).

Role of the Superintendent

The Private Postsecondary Education Act specifies at least 13 responsibilities for the Superintendent, including to

> establish policy for the administration of this chapter . . . .
>
> prepare annually a proposed budget for the support of activities of the State Department of Education pursuant to this article
>
> consult with the council prior to instituting any action to deny, suspend, or withdraw approval or authorization of courses or schools pursuant to this article . . . .
>
> take into consideration the advice of the council on all matters where the council is authorized to communicate advice to the director . . . .
>
> negotiate and enter into interstate reciprocity agreements with similar agencies in other states if, in the judgment of the superintendent, such agreements are, or will be, helpful in effectuating the purposes of this chapter . . . .
>
> establish and maintain a Private Postsecondary Education Administration Fund . . . .

California's two most recent Superintendents have fulfilled most of these stated responsibilities. But for various reasons, they have avoided three of them -- to "meet with the council at least twice per year" (Section 94305(e), "publish annually for public distribution a directory of all institutions approved or authorized to operate in this state under provisions of this chapter" (Section 94305(g), and "adopt regulations" governing the licensure and authorization process (Section 94305(b).

- During his tenure, California's most recent Superintendent met once with the Council, but the current Superintendent has yet to do so. He has designated Joseph Symkowick, General Counsel of the Department, as his representative on it. Symkowick, who reports directly to the Superintendent, is one of the Council's 15 voting members, but the Superintendent has not used his own personal presence or the influence of his office to persuade the Council to approve an adequate budget for the Division or support adequate regulation of the industry in its long-run interests.
- Rather than publishing an annual directory of institutions, which the Department used to do when its budget permitted, the Private Postsec-

ondary Education Division now supplies computerized printouts of schools that offer particular programs to anyone who requests such a list. William Noble, assistant director of the Division, explains that the old directory "wasn't worth the paper it was printed on because by the time we would get it printed, it would be several months out of date. When you consider that we open a new school every day and we close one about every other day, six months out of date is very far out of date. We now give students information current within about a week, so the computerized list more than meets the need as specified in the law." The Division deserves commendation for supplying these computerized lists in response to requests -- yet such individually prepared lists are unlikely to meet the need of California's high school guidance counselors, youth officers, and public libraries for basic facts about postsecondary opportunities in the State.

- The Superintendent has sought to develop regulations that would implement the new standards established by the Legislature in recent years for authorized colleges and universities and for accredited out-of-state institutions -- but he missed the Legislature's deadlines for doing so and has yet to submit enforceable regulations to the Office of Administrative Law for adoption.

Given the total responsibilities of the Superintendent of Public Instruction as a publicly elected State constitutional officer, these few omissions may seem miniscule. But combined with the last two Superintendents' inability to find adequate support for the Private Postsecondary Education Division, they have compounded the Division's problems in trying to implement the law and they are allowing questionable non-accredited institutions to operate with inadequate regulation or threat of closure.

Role of the Council for Private Postsecondary Educational Institutions

The Council for Private Postsecondary Educational Institutions was created in 1972 as an advisory body to the Superintendent in order to "provide leadership and direction in the continuing development of private postsecondary education as an integral and effective element in the structure of postsecondary education in California" and "maintaining and continuing, to the maximum degree permissible, private control and autonomy, in the administration of the private postsecondary schools and colleges in this state" (Section 94304).

The Council has 15 voting members -- four of them appointed by the Superintendent, five by the Senate Rules committee, and five by the Speaker of the Assembly -- plus the Superintendent or his designee. Seven of the appointees must be public members and seven administrators of private institutions. The Council has three additional non-voting ex-officio members: the directors or their designees of three related State agencies -- the Departments of Consumer Affairs and Employment Development, and the Postsecondary Education Commission. It has no official relation with the State Board of Education. Its current chair is Stephen Smith, a public appointee of the Senate Rules Committee

The Council has sought to fulfill its responsibilities quoted above -- at least as far as non-accredited institutions are concerned. As noted earlier, its 1982 special committee on authorization standards made a major contribution to the improvement of private postsecondary education by adopting standards that emphasized education rather than credentialing. Last September, the Council approved a new protocol to improve its review of visiting committee reports; and it has now adopted a "Statement of Principles, Role, and Leadership" to guide its priorities in the future.

But the Council has seemed to limit its leadership to non-accredited institutions rather than both accredited and non-accredited, and its role is primarily only advisory to the Superintendent. Its advice can be ignored except in one area -- finance. Section 94331 of the Education Code gives the Council veto power over increases in the fees that the Division charges institutions for their authorization or approval. In 1985, the Council rejected the Department's request for a fee increase to finance the new site-visits to authorized institutions (Lawrence, 1985, and Gaylor, 1985). As a result, the Postsecondary Education Commission had to seek an Attorney General's judgment against the Council to be assured of reimbursement for its participation in the visits. In 1986, the acting director of the Division asked the Council to approve fee increases to enable it to hire needed staff -- calculated by him at two consultants, two analysts, and four support staff -- or fully one-fourth of the Division's staff at the time. Yet the Council refused to permit the increases that year, claiming that the Division would use the increases for other purposes than institutional authorization or approval.

Under Department of Education policy, the Division has been limited to only one-fifth of one lawyer's time in the Department's legal office, but its backlog of legal work has led the Division to ask the Council for a fee increase to fund a full-time attorney. The Council has approved an increase to permit $29,000 more for legal support during 1990, yet because of no matching funds from the State the other staff shortages remain.

Like any governmental advisory board regarding any industry, the Council has fluctuated in its concern for protecting the short-term versus long-term interest of its industry. It has sought to "encourage privately supported education" -- one intent of the law -- by maintaining openness to innovation and experimentation, and it has recognized that in the long run some restraints on innovation are necessary to achieve the other intent of the law -- "recognition of work completed and degrees and diplomas issued by privately supported institutions." Until recently, it was reluctant to support many restraints.

Some observers contend that it is unrealistic to expect any such board to promote as well as regulate its industry adequately. They cite as one example the federal Atomic Energy Commission's promotion of the atomic energy industry to the neglect of its regulation. Clearly the Council has alternated between its promotional and regulatory emphases. According to one of its members, earlier in the decade "it was pretty much a rubber stamp of the Division, and the Division was a rubber stamp of the industry. . . . Now two-thirds to three-fourths of the members take their oversight role seriously and believe it is more urgent than their promotional role. The industry used to see the Council as its baby, but now it has mixed feelings about it."

Beyond this tension of goals, the Council has suffered a structural problem in its lack of staff. This past fiscal year, the Division left the Council's staff consultant position vacant for financial reasons. As of January 1989, it had a full-time staff consultant and a half-time stenographer assigned to it for the first time since 1986-87. Yet the Council does not control its staff: instead, it relies on the Director of the Division to select and assign them.

Now that staffing has been restored, the structure and function of the Council warrant review as the Legislature considers changes in the Private Postsecondary Education Act.

- One possibility would be to orient the Council far more completely and exclusively in the direction of "encouraging" privately supported education rather than "regulating" it -- for example, by having its staff and members advise and counsel struggling institutions about how to become or remain authorized or approved -- a role that the staff of the Division now perform but that conflicts with their regulatory duties.
- An opposite option would be to assign the Council far more regulatory responsibility beyond that of merely making "recommendations to the Superintendent" about institutional licensure, appeals, and complaints. Properly structured and staffed, it could become the appellate body -- the court of last resort -- for decisions by the Division and the Superintendent. This option would solve one of the present weaknesses in the authorization process: that of having the final step in the process prior to litigation be made by an individual -- the Superintendent -- rather than by a group.

Probably the most common principle of American governance, whether in civil, academic, professional, or corporate government, concerns the three basic governmental functions of legislation, adjudication, and administration: *Groups legislate and adjudicate, while individuals administer*. That is, the most important policy-making and judicial decisions are best made by groups -- be they legislatures, supreme courts, academic senates, or boards of directors -- while administrative decisions are best made by individuals.

California's current licensure process for private postsecondary institutions turns this tradition on its head: it designates the Council as only an advisory body to the Superintendent rather than as a policy-setting body and as an adjudicatory board for resolving disputed administrative decisions.

Role of the Private Postsecondary Education Division

The Private Postsecondary Education Division in the Department of Education implements the law on behalf of the Superintendent. Increasingly the Division has been an anomaly within the Department. When it was first organized as the "Division of Readjustment Education" of the Department at the end of World War II to administer provisions of the first GI Bill, the Department had other higher education duties. It was responsible for the governance of California's state colleges and statewide oversight of its two-year junior colleges. But in 1960 its control of state colleges was assigned to the Trustees of the new California State College System -- now The California State University; and in 1972 its two-year college functions were assumed by the new Board of Governors of the California Community Colleges.

Since then, the Division has been the only unit of the Department that oversees any degree-granting institutions. The Department remains involved in *non-degree* postsecondary education through its work with adult schools and regional occupational centers, and it continues to oversee federally supported vocational education in the community colleges, but like the Superintendent of Public Instruction, it has increasingly devoted the rest of its attention to elementary and secondary education.

Division organization and staff

The Division has had three directors over its past four decades: Herbert Summers for the first three, John H. Peterson for a fourth -- from 1976 to 1986 -- and Joseph P. Barankin since July 13, 1987. William Unger and William Noble have served as acting administrators during the 1980s.

The Division has two assistant directors -- William Noble and Roy Steeves -- who manage its two offices in Sacramento and Los Angeles, respectively. The Los Angeles office is being phased out by attrition but it still consists of five staff, plus Steeves. The Sacramento office has 25 staff positions in addition to Barankin and Noble, but five of these positions were vacant as of last summer (Display 7). Now all have been filled.

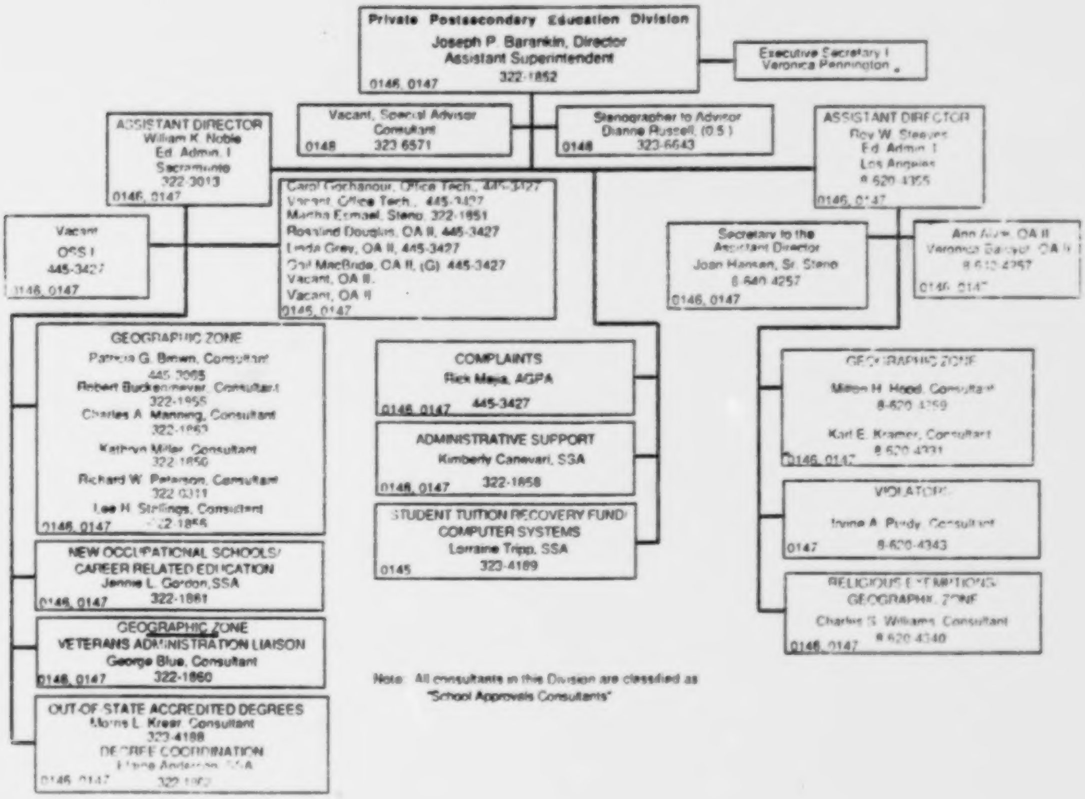
Barankin taught English and psychology at San Francisco State before going into private consulting and working for the Legislative Analyst, after which he was hired by the Department of Education in its child development unit. He then reorganized financial reporting in its special education unit before assuming directorship of the Division. He states the task of the Division and his own priorities this way:

> We have no other interest in anything other than that California institutions deliver to the consumer what they purport to deliver. We have no other purpose for being.
>
> In any field, there are people who have a commitment to what they are doing -- who have a commitment to doing it well, and who have their priorities straight from the point of view of the consumer. I will do whatever it takes to defend and protect those folks and to encourage them to continue doing what it is they do, whether in the public or the private sector.
>
> At the same time, there are those whose interests are different. They are more concerned with other things, whether it's eliminating competition or making a buck at improper cost, or whatever. We need to do what needs to be done about those folks as well, both in the public and the private sector.

Barankin has made major efforts at trying to solve the Division's long-standing problems, beginning with staff development. He has organized staff training sessions and regular staff meetings -- compared to only two all-staff meetings held during the entire decade prior to his appointment. An internal audit conducted by the Department's Audit Management and Review Office indicated some of the problems that Barankin has faced, noting the Division staff had:

- Granted an accredited status to an unlicensed institution without receiving written documentation from the accrediting agency and without questioning a condition for accreditation;
- Retained the institution's status despite a change of ownership, on the assumption that the accrediting agency would know of the ownership change but without written documentation to this effect;

DISPLAY 7 Organization and Staff of the Private Postsecondary Education Division, July 1988


Private Postsecondary Education Division
Joseph P. Barankin, Director
Assistant Superintendent
0146, 0147 322-1852
Executive Secretary I
Veronica Pennington
Vacant, Special Advisor
Consultant
0148 323 6571
Stenographer to Advisor
Dianne Russell, (0.5)
0148 323-6643
ASSISTANT DIRECTOR
William K. Noble
Ed. Admin. I
Sacramento
322-3013
0146, 0147
ASSISTANT DIRECTOR
Roy W. Steeves
Ed. Admin. I
Los Angeles
8 620-4355
0146, 0147
Vacant
OSS I
445-3427
0146, 0147
Carol Gochanour, Office Tech., 445-3427
Vacant, Office Tech., 445-3427
Martha Esmael, Steno, 322-1851
Rosalind Douglas, OA II, 445-3427
Linda Grey, OA II, 445-3427
Gail MacBride, OA II, (G) 445-3427
Vacant, OA II.
Vacant, OA II
0145, 0147
Secretary to the
Assistant Director
Joan Hansen, Sr. Steno
8 640 4257
0146, 0147
Ann Allen, OA II
Veronica Barcelo, OA II
8 610-4257
0146, 0147
GEOGRAPHIC ZONE
Patricia G. Brown, Consultant
445-2065
Robert Buckenmeyer, Consultant
322-1955
Charles A. Manning, Consultant
322-1863
Kathryn Miller, Consultant
322-1850
Richard W. Peterson, Consultant
322-0311
Lee H. Stallings, Consultant
322-1856
0146, 0147
NEW OCCUPATIONAL SCHOOLS/
CAREER RELATED EDUCATION
Jennie L. Gordon, SSA
0146, 0147 322-1861
GEOGRAPHIC ZONE
VETERANS ADMINISTRATION LIAISON
George Blue, Consultant
0146, 0147 322-1860
OUT-OF-STATE ACCREDITED DEGREES
Morris L. Kreer, Consultant
323-4188
DEGREE COORDINATION
Elaine Anderson, SSA
0146, 0147 322-1862
COMPLAINTS
Rick Mejia, AGPA
0146, 0147 445-3427
ADMINISTRATIVE SUPPORT
Kimberly Canevari, SSA
0146, 0147 322-1858
STUDENT TUITION RECOVERY FUND/
COMPUTER SYSTEMS
Lorraine Tripp, SSA
0145 323-4189
GEOGRAPHIC ZONE
Milton H. Hood, Consultant
8-620-4259
Karl E. Kramer, Consultant
8 620 4331
0146, 0147
VIOLATORS
Irvine A. Purdy, Consultant
0147 8-620-4343
RELIGIOUS EXEMPTIONS
GEOGRAPHIC ZONE
Charles S. Williams, Consultant
8 620 4340
0146, 0147

Note: All consultants in this Division are classified as "School Approvals Consultants"

Source: Honig, 1988, Section 1100.

- Authorized an institution to award degrees on the basis of a visit to it under its previous owners;
- Maintained more than one file on institutions;
- Failed to date stamp all documents on receipt; and
- Signed the Director's name on correspondence instead of their own (Aspling, 1987, pp 1-4).

Orientation of the Division

Despite the Division's best intentions, protecting the "integrity of degrees" cannot be its first priority. Degree-granting institutions constitute only a small fraction of the more than 2,500 private postsecondary institutions that the Division must oversee; and its activities range far beyond this oversight -- among them, officially licensing some 380 schools each year that are reviewed by other State agencies, handling over 200 career-related education filings a year, approving some 20 changes of ownership or location a month, approving between 100 and 200 personnel applications a month, responding to over a hundred inquiries a month about opening new institutions, providing up to 50 course inventory printouts a month, receiving between 20 and 30 consumer complaints a month, issuing school violator notifications, paying out Student Tuition Recovery Fund claims, staffing the Council for Private Postsecondary Educational Institutions, and maintaining liaison with at least 32 different State and federal agencies on matters of institutional licensure.

Of all these tasks, the Division's largest is to work with the Veterans Administration as a "state approval agency" to approve courses so that veterans and others can receive VA reimbursement for completing them. Only three other states in the nation -- Nevada, Tennessee, and Wisconsin -- expect that their state approval agencies for veterans' reimbursement will also license their degree-granting institutions. From the Commission's perspective, California's combination of these two duties in the Division without supporting the latter of them -- institutional licensing -- seriously weakens its licensure function and the integrity of California's degrees and diplomas.

As part of the Division's VA approval function, it evaluates courses of all educational institutions in California that seek approval of these courses for veterans' eligibility, including nearly 400 *public* institutions that range from community colleges and universities to adult schools and hospitals, as well as over 800 accredited and non-accredited private trade and technical schools, colleges, and universities.

For each institution, the Division's staff consultants complete a "Title 38 Administrative Report," checking 51 items such as these:

> Charges to VA beneficiaries for tuition and fees were the same or less than the charges to other similarly circumstanced students. Yes ☐ No ☐
>
> The facility maintains accurate current and complete records of progress or grades. Yes ☐ No ☐
>
> Is the school catalog routinely distributed to enrollees?
>
> If facilities were toured, do facilities, equipment, and utilization appear satisfactory?
>
> If classroom instruction was observed, was it judged generally educationally adequate?

Staff consultants visit accredited as well as non-accredited institutions for such approvals, and because at least once a year they must visit each institution in which a veteran is enrolled in an approved course, they spend the largest block of their time on veterans' eligibility reviews.

In addition, because most of the courses they review are at vocational and technical levels and do not lead to degrees, most staff consultants come to the Division without any expertise in higher education other than having been a student. Few have first-hand experience with the process of earning a doctorate. Barankin, Roy Steeves, and three staff consultants are the only members of the Division who have been faculty members. Staff hired from other units of the Department may have particular expertise in school administration or adult education -- but not in degree-level programs. The Division seeks new consultants with knowledge of degree-granting institutions, but few candidates apply with that expertise, so its staff is unlikely to change in that direction dramatically.

The Legislative Analyst recommended in 1980 (p. iii) that the State abandon the "state approval agency" functions of the Department, since these veterans' education duties seemed ineffective in assessing program quality, inefficient in terms of travel time involved, and largely unnecessary because they seemed to duplicate annual visits by VA staff. The Analyst proposed instead that the Legislature direct the Division to concentrate on handling initial institutional reviews, closures, complaints, and in-depth assistance to problem institutions. So far, the Legislature has not agreed.

Funding of the Division

The orientation of the Division is evident from its funding. The Division operates completely on VA funds and on the fees it charges institutions and individuals -- and it pays overhead to the Department from its VA contract. Display 8 shows the amount of its two sources of funds in recent years, during which time VA funds comprised 54 percent of the total. The Division received $1.116 million from the VA during fiscal year 1987-88 and $1,212,400 for this year, but the Department charges overhead of 30 percent on this amount, while the federal government pays overhead of only 15 percent -- so the Division had had to make up the other 15 percent by other means.

The source of the Division's funds determines the proportion of time that its staff can devote to issues of institutional licensure. It explains to applicants for its staff consultant positions that 40 percent of their time will be devoted to VA work, compared to 10 percent for institutional evaluations for State authorization or approval. And because the VA dis-

DISPLAY 8 Expenditures by the Private Postsecondary Education Division, Fiscal Years 1982-1987, by Source of Funds (Dollars in Thousands)

	Source of Funds					
	Veterans Administration		Institutional and Individual Fees		Total	
Fiscal Year	Amount	Percent	Amount	Percent	Amount	Percent
1982	$1,402	82%	$ 299	18%	$1,701	100%
1983	940	57	715	43	1,655	100
1984	991	56	763	44	1,754	100
1985	1,035	53	936	47	1,971	100
1986	882	38	1,463	62	2,345	100
1987	1,028	46	1,189	54	2,217	100
Total	$6,278		$5,365		$11,643	
Average	$1,046	54%	$ 894	46%	$1,941	100%

Source: Private Postsecondary Education Division, California State Department of Education.

penses its funds on a "time and costs reimbursement" basis, the Division must justify its claims for reimbursement by its actual services rendered.

In the past, the Division unsuccessfully tried to piggy-back some of the costs of its institutional authorization duties onto its federal contract, claiming that the VA benefited from its authorization work. The VA disagreed, and in 1980, it withheld $328,128 from the Department's existing contracts, claiming that it had paid the Division $115,878 too much out of its $697,618 contract during fiscal year 1977 for staff time not directly related to course approvals and $212,250 too much out of its $890,000 contract during 1978. The Division and Department appealed the decision and sought to recover some $100,000 of that amount. After seven years of periodic negotiation, in July 1987 the VA agreed to reimburse the Department a total of $61,000 of the original $328,128 -- and the Department accepted this compromise (Wolfertz, 1981, and Veterans Administration, 1987).

Early in the 1980s, the possibility existed of severe funding cuts for the Division from its Veterans Administration contract, since veterans were expected to use their entitlement under the GI Bill by the end of 1989. In 1984, however, Congress passed and President Reagan signed the "New GI Bill" as a three-year test program that became permanent in 1987. Under this law, members of the armed services on active duty as well as reservists and National Guard members may receive benefits. Thus the Division's funding from the Veterans Administration seems safe indefinitely.

A greater problem for the Division stems from the other major source of its funds: institutional fees. Because the Division lacks any State General Fund support, it must charge high fees in order to support all of its non-veterans activities. In fact, its fees are the highest of any state regulatory agency for higher education in the country. It charges institutions applying for authorization $3,968, compared to an average of $228 among the other states that charge any fee at all. Its annual renewal fee thereafter is $1,904, compared to $139 among those other states. (In comparison, for an evaluation visit every five years, two-year institutions accredited by the Accrediting Commission for Community and Junior Colleges of the Western Association of Schools and Colleges pay WASC $3,500 if they have fewer than 2,000 students, $4,200 if they have between 2,000 and 10,000 students, and $4,900 if they enroll more than 10,000. They also pay annual dues of either

$1,500, $2,000, or $2,500 depending on their enrollment.)

Some non-accredited institutions would be willing to pay the Division even higher fees to ensure an adequate job, but others object to the current fees, which place the staff of the Division in a continually awkward and sometimes conflicted position with these institutions -- on the one hand, feeling that they should advise and counsel them about how to achieve authorization or approval, and, at the same time, judging their adequacy in meeting authorization and approval standards.

Conflict of roles

Although the Private Postsecondary Education Act of 1977 has the dual purpose of promoting private education as well as regulating it, the law has never assigned the task of promoting private education to the Division, the Department, or the Superintendent. Instead, it assigns that priority to the Council for Private Postsecondary Educational Institutions, directing it to "provide leadership and direction in the continuing development of private postsecondary education." But because the State has required the Division to fund its regulatory activities on the basis of fees alone, the Division has been obligated to play a role of encouragement and promotion, with unfortunate results to its responsibility of regulation.

The staff of the Division provide extensive consultative services to institutions in order to help them meet the requirements of the law. They spend much of their time helping institutional officials bring their operation up to minimum standards, placing emphasis on servicing applicants for authorization and preparing them for the site-team visit. Some of them not only advise administrators about how to write statements of institutional purpose and educational philosophy -- but actually write these statements themselves for the institutions. As an example, one of the Division's most experienced staff consultants spent months off and on during the mid-1980s helping Columbia Pacific University reorganize itself into three main divisions, refine its student application materials, rethink its curriculum, rewrite its catalog, create a faculty handbook, and compare its courses with such accredited institutions as Berkeley, Stanford, San Francisco State, San Jose State, and California State University, Hayward.

The Office of the Attorney General claims that such activities of the Division's staff cause problems for it when it must help the Department of Education defend the Superintendent in cases of denied authorization. The Office has difficulty building a case against an institution when the Division's staff members have initially played the role of institutional advisor, helper, and friend -- and only later become the institution's accuser and main Attorney General witness.

It may be too much to expect California's regulatory agency to emphasize regulation when it is the only one in the entire nation that receives no State tax dollars to do so. But how to ensure regulation remains the State's greatest dilemma in trying to maintain the integrity of its private postsecondary education enterprise.

Consequences of underfunding

Lack of State funding not only compromises the staff of the Division in their regulatory role, it frustrates their efforts at regulation. Among the comments of current and former staff members are these: "The pressure from various audiences is so great, you're in a continual state of paranoia. It takes three years to learn the job." "The job is impossible to get on top of." "I feel out on a limb. What do I have in order to back me up in a negative decision?" "The Division needs a full-time attorney and at least twice the staff."

Each staff consultant has between 200 to 300 institutions to oversee -- among the highest load of any major postsecondary oversight agency in the country. According to a Commission survey of the 50 states, the Division has a higher institution-to-staff ratio than any large state with the exception of Illinois, and all the other major industrialized states average half of the Division's load. Nonetheless, secretarial support for the division's staff consultants is limited, and consultants are able to spend only between seven and ten days a month in the field, due to budget limitations. With minimum visits taking one-half day each, they can average only 14 to 20 visits a month.

In the past year, the staff's workload has been compounded by a major reorganization that Barankin instituted to make the Division's decisions more consistent. In 1977, with the passage of the Private Postsecondary Education Act, his predecessor John Peterson had established a "degree team" of four Sacramento-based staff consultants -- Pat Brown, Morris Krear, Charles Manning, and Richard Peterson -- plus a full-time analyst to oversee degree-granting institutions throughout the whole State, while the rest of the Sacramento and Los Angeles staff dealt only with non-degree institutions. Peterson's rationale was that three-fourths of the staff lacked experience evaluating colleges and universities, and the nature of most degree-granting institutions was so much more complex than that of non-degree-granting schools that they required special expertise.

In November 1987, to overcome persistent complaints of inconsistency among the staff consultants, Barankin assigned all but two consultants a geographic region for which they are totally responsible, including acting on complaints and violator follow-ups (Display 9, page 46). (The two other consultants are (1) serving as staff for the Council for Private Postsecondary Education Institutions and (2) implementing licensure of out-of-state accredited institutions.) So far the plan has had mixed results, with some administrators claiming that it has merely shifted inconsistent evaluations from among types of institutions to geographic regions. Thus Catherine Sizemore, the legislative representative of the California Association of Private Schools, has stated, "Depending on where you live in the State and who your consultant is, you will either have an easy time, a difficult time, or an impossible time in getting through your process. So sufficient funds are needed for adequate training of the consultants."

Barankin's plan may eventually result in much improved operation of the Division, but the reassignment and retraining of staff that it has required have at least temporarily increased their workload and job stress. Combined with the increased assignments that the Legislature has imposed on the Division, it has led to a series of questionable decisions based on insufficient planning of campus visits, inadequate staff leadership during visits, unilateral staff actions without the authorization or concurrence of the other members of the visiting team, and administrative reversal of staff actions.

Implementation of the 1977 Act

Problems that the Division faces in implementing the Private Postsecondary Education Act are evident in its approach to each major category of recognition of degree-granting institutions -- religiously exempt, accredited, approved, and authorized.

Religious exemptions under Section 94303(b)

The Division receives approximately two requests a month to acknowledge religious exemptions -- those licenses to award degrees without State authorization or approval -- but its staff has no idea how many institutions award degrees in California without making such requests. A staff consultant in the Division's Los Angeles office is the Division's staff member assigned to decide on these exemptions, but he must do so in what little time he has free from overseeing the authorization and approval of some 200 licensed institutions in the Los Angeles basin.

This consultant can only guess at the number of institutions that are issuing diplomas in the State without an exemption. If he hears about an institution operating without authorization, he writes it a letter asking for information and advising its executive of its responsibility to apply for authorization or exemption. If the institution is a church that seems only to be offering certificates to its Sunday School teachers, he is less worried than if it seems to be training nurses or other professionals -- in which case he sends it a second letter, asking it to apply for exemption. If it still fails to respond, he writes a third letter, explaining that the Department of Education may refer the matter to the Attorney General for appropriate action. If he doesn't hear back, he alerts either of the assistant directors of the Division to determine if the case should be sent to the Department's Legal Office.

If an institution applies for religious exemption for it programs, the consultant has it submit its articles of incorporation, the bylaws of the church, an explanation of its membership, its schedule of regu-

DISPLAY 9 Geographic Areas Staffed by Division Staff Consultants, 1988

GEOGRAPHICAL ASSIGNMENT ZONES

Zone A	Zone B		Zone C
Del Norte	Siskiyou	Yuba	Contra Costa
Humboldt	Trinity	Sutter	Alameda
Mendocino	Modoc	Placer	San Mateo
Lake	Shasta	Yolo	
Sonoma	Lassen	El Dorado	**Zone D**
Napa	Tehama	Sacramento	Santa Cruz
Marin	Plumas	Amador	Santa Clara
Solano	Glenn	Alpine	San Benito
San Francisco	Butte	Calaveras	Monterey
	Sierra	San Joaquin	San Luis Ob.
	Colusa		Santa Barbara
			Ventura

Zone E
West L.A.

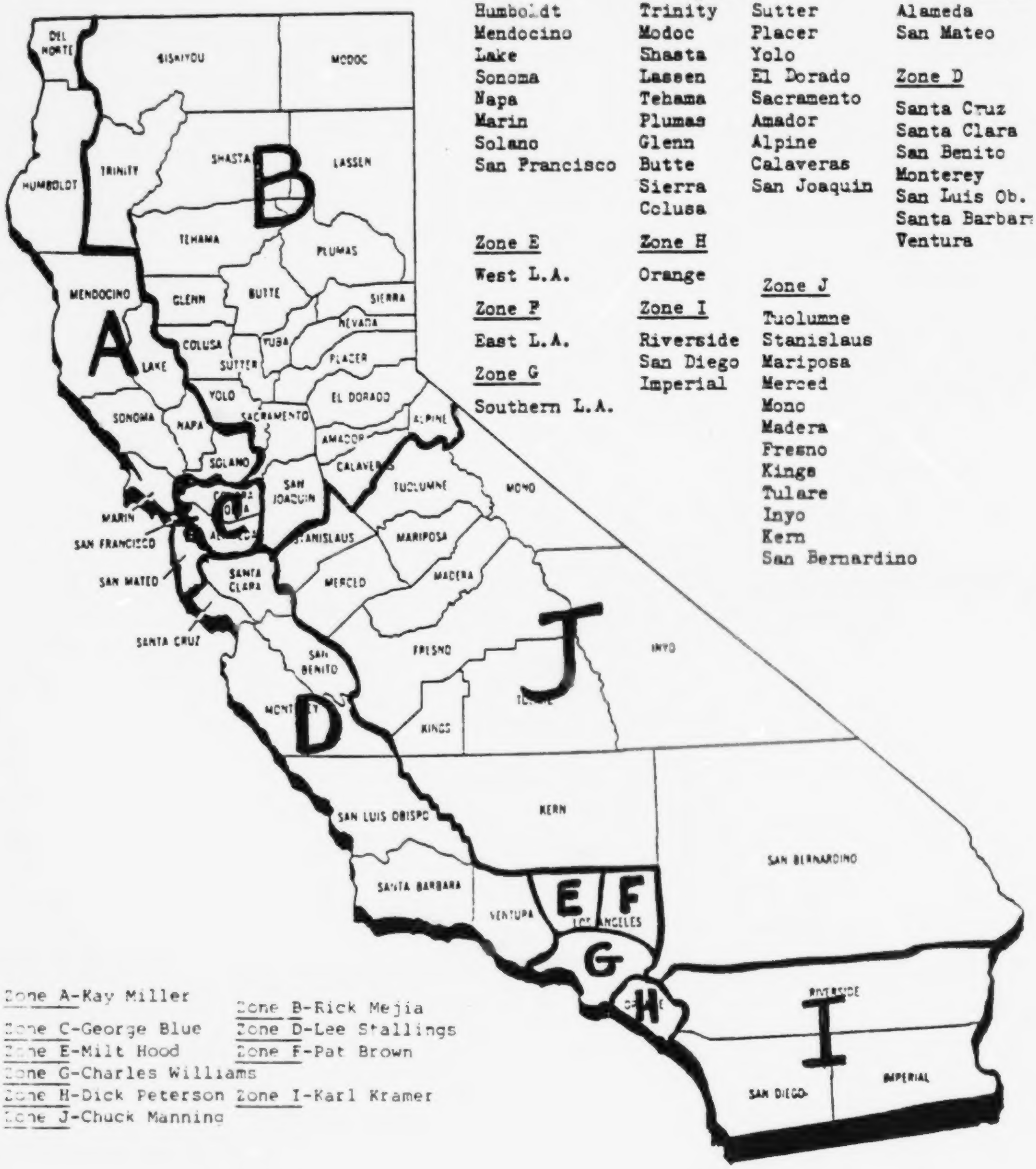
Zone F
East L.A.

Zone G
Southern L.A.

Zone H
Orange

Zone I
Riverside
San Diego
Imperial

Zone J
Tuolumne
Stanislaus
Mariposa
Merced
Mono
Madera
Fresno
Kings
Tulare
Inyo
Kern
San Bernardino


A
B
C
D
E
F
G
H
I
J
DEL NORTE
SISKIYOU
MODOC
HUMBOLDT
TRINITY
SHASTA
LASSEN
TEHAMA
PLUMAS
MENDOCINO
GLENN
BUTTE
SIERRA
NEVADA
COLUSA
LAKE
YUBA
SUTTER
PLACER
YOLO
EL DORADO
SONOMA
NAPA
SACRAMENTO
ALPINE
AMADOR
SOLANO
CALAVERAS
SAN JOAQUIN
TUOLUMNE
MONO
MARIN
SAN FRANCISCO
STANISLAUS
MARIPOSA
SAN MATEO
SANTA CLARA
MERCED
MADERA
SANTA CRUZ
SAN BENITO
FRESNO
INYO
MONTEREY
KINGS
TULARE
SAN LUIS OBISPO
KERN
SAN BERNARDINO
SANTA BARBARA
VENTURA
LOS ANGELES
ORANGE
RIVERSIDE
SAN DIEGO
IMPERIAL

Zone A-Kay Miller
Zone B-Rick Mejia
Zone C-George Blue
Zone D-Lee Stallings
Zone E-Milt Hood
Zone F-Pat Brown
Zone G-Charles Williams
Zone H-Dick Peterson
Zone I-Karl Kramer
Zone J-Chuck Manning

Source: Private Postsecondary Education Division, California State Department of Education, 1988.

lar meetings, its statement of religious purpose, an outline of the courses it offers for degrees or certificates, and an explanation of how these courses are part of its religious principles. He explains that when it submits its application, it can consider its programs and degrees to be exempt unless it hears to the contrary.

Feather River University claims in its catalog that it is "registered with the California State Department of Education as a degree-granting institution under California Education Code Section 94303(b)." The Division's consultant has written Feather River's attorney that it should state only that it is an exempt institution, since "an entity operating under the fact of this provision may not state or infer by any means whatsoever that there exists any recognition of the education or documents awarded by the state or any agency or agent thereof" (Private Postsecondary Education Division, 1980) The Division has not heard back from Feather River and has sent its file to the Department's Legal Office for review, but in the meantime Feather River continues to grant degrees and claim registration with the Department.

The Division tries to exempt the courses of any legitimate religious institution that limits its educational offerings "to instruction in the principles of that church or denomination" (Education Code Section 94303(b), but it questions the claims of other institutions, such as those whose bylaws limit membership in their church only to their board of directors, and those that appear to be liberal arts colleges that simply don't want to bother with authorization. For example, it tries to make sure that the titles of their degree are limited to theology or religion -- "Bachelor *of* Theology" rather than "Bachelor *of Arts in* Theology," since any "bachelor of arts" implies a general liberal arts education, with its emphasis on breadth of knowledge and development of wide-ranging theoretical and other conceptual skills. And it acknowledges an institution's exemption if its courses consist primarily of religious subjects such as "History of the Christian Church" rather than standard history or sociology or physical education offerings. The institutions that present most problems are those that claim their orientation is "metaphysics," that all human knowledge is part of their religious principles, or that offer programs in hypnosis, hypnotherapy, pastoral counseling, and religious education.

Of the 87 institutions that have applied for exemption of their certificates or degrees in recent years (not counting Feather River or Bernadean), the Division has recognized 75 as exempt. Seven of the other 12 are not currently operating. But the following five continue to operate without written determination of exemption, on the theory of automatic exemption:

Logos Bible College and Graduate School, San Diego;
Mount Hermon Baptist Church, Santa Monica;
Samaritan College, Los Angeles;
San Diego Bible College and Seminary, San Diego; and
Truth Bible College, Oakland.

And these exempted institutions are offering "arts," "education," and "counseling" degrees:

Alliance College and Seminary of the World Missionary & Evangelistic Association, Norwalk: Bachelor of Arts in Theology and Bachelor of Arts in Christian Education (not Bachelor of Theology and Bachelor of Christian Education);
Auburn Bible College, Auburn: Bachelor of Arts in Bible (not Bachelor of Bible);
Citadel Baptist Theological Seminary, Sacramento: Bachelor of Elementary Education;
Concord Christian College, Concord: Bachelor of Counseling/Psychology; and
Southern California Graduate School of Theology: Master of Arts in Biblical Studies, (not Master of Biblical Studies).

Accredited institutions operating under Section 94310.1

Accredited colleges and universities headquartered in California cause the least work for the Division of any type of institution, despite the fact that a few periodically forget to send in their annual affidavits of accreditation -- the one duty that the State requires of them under Section 94310.1(a) of the Education Code. (Unlike other institutions, they are not required to contribute financially to the support of the Division.) But since 1985, the Division's task under Section 94310.1(b) to license accredited institutions that operate in California but are headquartered elsewhere has increased its workload greatly.

A Sacramento-based staff consultant has been been assigned the task of overseeing the licensure of these out-of-state institutions. He has led visiting teams to five of the 12 in order to verify that they meet the standards developed as a result of Senate Bill 1036 (1985, Montoya). He hopes to review the remaining seven at a rate of two per month through April of this year, but he has been able to review the first five at a rate of only one a month. He is also responsible for writing regulations based on these standards -- regulations that the law directed the Superintendent of Public Instruction to develop by March 1, 1987 -- but so far, they have not been completed.

A second issue in implementing the law with respect to out-of-state accredited institutions concerns redundancy: the Division's ability to meet the Legislature's intention that licensure be "conducted whenever possible in concert with the institutional review conducted by the regional association." So far, for a variety of reasons this coordinated approach has seldom been possible. According to the Division, no reaccreditation visits were scheduled during the period the new law was to be implemented, and only one association agreed to participate in a State-organized visit -- the rest refusing because they wished to remain outside of government influence. As a result, institutions have had to prepare separate self-study reports and schedule separate visits:

- Kenneth Smith, provost of Antioch University, Los Angeles, states that the North Central Association visited Antioch's San Francisco and Los Angeles operations in January 1988, but the State scheduled its visit for this past November and required extensive revision of Antioch's existing self-study report.
- William Civitello, executive vice president of City University in Santa Clara -- a branch of City University headquartered in Bellevue, Washington -- reports that his institution has had three visits by the Northwest Association of Schools and Colleges in the last five years, including one in which the Western Association participated, as well as a separate State visit.

Fulfilling the Legislature's intent of coordinated review will require more flexibility in the future by the Division and accrediting agencies than they have demonstrated thus far.

Institutions approved under Section 94310.2

The importance of adequate implementation of California's standards for approved colleges and universities has been highlighted by two recent developments mentioned earlier -- (1) the 1987 decision of the State Personnel Board to accept degrees from State-approved institutions as comparable to those from accredited institutions in allowing candidates to be eligible for State civil-service examinations, and (2) the 1988 request of the Council for Private Postsecondary Educational Institutions that the Superintendent of Public Instruction apply for federal recognition of the State-approval process as comparable to accreditation, thereby opening access of these institutions to federal and State student aid.

In his review of the State-approval process for the Council, Frank Dickey -- former executive of the National Commission on Accrediting -- stated that representatives of three accredited institutions had told him "that the major problems with the approved school process are the 'suspicion that the visiting committees are not sufficiently rigorous in their review,' and that the standards relative to faculty qualifications are not strict enough" (p. 5). Dickey subsequently recommended that Superintendent Honig seek federal recognition of the approval process, but because staff of the Postsecondary Education Commission had also heard of similar problems, the Commission has studied this process with particular attention.

At the center of the problem is the requirement in Section 94310.2 of the Education Code that the curriculum and academic achievement of State-approved institutions be comparable to those of accredited institutions. To ensure this comparability, the law requires that the visiting committees to institutions applying for State approval "be composed of educators from both accredited and state approved institutions."

This requirement would seem to mean that the members of these visiting committees should be educators *employed* by accredited and approved institutions, since they must be knowledgeable about the curricula offered by accredited institutions and the achievement expected of their graduates by these institutions. But some visiting committees have included voting members from other types of institutions and agencies. Questioned about this fact, staff of the Division report that they have interpreted this requirement of the law to mean that committee members must only be *graduates* of accredited institutions or have *at one time* taught in an accredited or State-approved institution. This staff interpretation of the law is not Division policy, according to Barankin.

Another problem exists with the "verifiable evidence" that institutions provide these visiting committees about their graduates' academic achievement compared to that required of graduates of other recognized accredited institutions. The Division has revised its application form to collect this information, and it has held workshops with institutional administrators to ensure that they understand the new form, but institutional response has been spotty. Because of the importance of this evidence in ensuring the comparability of approved and accredited institutions, the Commission has reviewed the applications of the 29 approved institutions on file at the Sacramento offices of the Division. Display 10 on page 50 indicates the type of data that the staff found in those forms.

Of the 29 institutions, only a few appeared to submit the type of data required by the law. As a result, the visiting committees had to rely on other evidence gathered during their visits in order to approve the institution as comparable.

- Two of the 29 institutions provided survey evidence comparing their graduates with those of accredited institutions -- the New College for Advanced Christian Studies (Berkeley), and the Human Relations Institute (Santa Barbara);
- One -- the California Institute for Clinical Social Work (Berkeley) -- had professors at accredited institutions review students' dissertations and approve them as meeting the research standards of other recognized academic institutions;
- And five reported that they had compared the content of their courses or degree programs with those at accredited institutions -- California Coast University, Center Graduate School, Center for Psychological Studies, International School of Theology, and Simon Greenleaf School of Law.

But the visiting committees were forced to base their recommendations about the other 21 institutions on other evidence than that provided by those institutions, since their evidence did not involve comparisons with accredited institutions. In fact, eight of the applicants -- California Christian Institute, California Graduate School, California Theological Seminary, Newport University, Professional School of Psychology, Rosebridge Institute, Western Institute for Social Research, and World University of America (Ojai) -- appeared to offer no evidence other than the grades students received at the institution or the type of projects they completed. The committee that visited one of them concluded that it did not offer educational services comparable in scope and sequence to minimum standards of comparable degree programs in accredited institutions -- and yet following receipt of more financial information and revision of a degree program into a certificate program, the Division approved it on behalf of the Superintendent.

Alvin Ross, the president of Ryokan College and recent executive director of the California Association of State Approved Colleges and Universities, has said:

> Those of us who are operating degree-granting institutions and who consider ourselves serious educators operating legitimate learning centers are constantly having to fight the perception that we are diploma mills because we are non-accredited. The reason is that there has not been a history of good enforcement coming out of a Department that is underfunded to clear out the diploma mills, so we are all tarred with the same brush. As a result, public institutions and accredited independent institutions seldom accept our degrees and credits.

Ross' frustration can be explained in large part by the procedures followed by the Division in implementing Section 94310.2 of the Education Code. Besides those questionable procedures noted above, it has approved some institutions without making sure that they meet its minimum standards of au-

DISPLAY 10 *Primary Evidence of Comparability with Accredited Institutions Submitted to the Private Postsecondary Education Division by 29 Institutions Applying for Institutional Approval or Reapproval*

Type of Evidence Submitted	Number
Comparison of the institution's courses with those of accredited institutions.	5
Surveys of the job placement of the institution's graduates.	4
Percentage of graduates who pass professional licensure examinations.	3
Surveys of the satisfaction of the institution's graduates with their training or degree.	3
Comparative surveys of the institution's graduates and those of accredited institutions.	2
Review of student's work by professors at accredited institutions and other professionals.	1
Award of credit by accredited universities to graduates of the institution.	1
Subsequent satisfactory grade-point-averages of students who transfer to accredited institutions.	1
Unclear or unknown evidence.	1
No evidence submitted.	8
Total	29

Source: California Postsecondary Education Commission staff analysis.

thorization, such as offering instruction or having equitable tuition refund policies. Its visits are mostly two days in length. Its visiting team members receive no training before their visit. These teams are small -- for example, a six-member team to review a university that offers bachelor's and advanced degrees in business administration, education, engineering, human behavior, law, psychology, and religion. And the Superintendent has yet to adopt enforceable regulations for their use.

California's Department of Education has supported unsuccessful legislation that would extend the approval period of institutions from three to five years -- most recently in Assembly Bill 384 (1988, Peace). The Department may seek similar legislation during this biennium. Given the weaknesses of its approval process, such an extension seems unwarranted.

Colleges and universities authorized under Section 94310.3

The Division has had a major problem in trying to implement the important new standards for authorized colleges and universities enacted in 1984 because of inconsistencies among its staff regarding the importance of these standards. Some consultants have sought to implement all of them faithfully, while others have neglected some -- particularly the most important that separate out credentialing enterprises from actual educational institutions, such as Developmental Guidelines 12B and 12D, which require that "25 percent of each student's total degree program shall be instruction exclusively and directly provided from the institution's curriculum by the institution's faculty," and "The institution shall detail explicit rationale for the awarding of credit and a systematic and rigorous method for evaluating it" (Private Postsecondary Education Division, March 1985, p. 8). These standards have been stated in Title 5 of the California Administrative Code as follows:

> An institution shall not grant diplomas or degrees solely on the basis of education taken at, or credit transferred from, another institution or institutions, or solely on noninstructional learning experiences. Diplomas and degrees may be granted on the basis of a combination of instructional and noninstructional learning

> experiences for which the institution details explicit rationale for the awarding of credit and systematic and vigorous methods for evaluating it (Section 18803(b).

Why some staff members have seemingly ignored these requirements is unknown. They may not have been aware that at least two nationally accepted means of systematic evaluation of prior learning are available to institutions -- materials from the Council for the Advancement of Experiential Learning, and the College-Level Examination Program. Whatever the reason, at least until recently some have overlooked the requirements.

For instance, one large institution was unable to provide the Division's staff consultant and the other members of its visiting team with any records of faculty members' teaching assignments or of students assigned to instructors, any stated policies regarding the award of transfer credits, any evidence of relation between previous work and the waiver of requirements, or any indication of systematic academic record-keeping in the form of transcripts. One of the visitors -- the dean of students and assistant provost of a Los Angeles institution -- noted its lack of traditional transcripts:

> ____'s method of preparing transcripts -- handwritten records previous to graduation, official transcript prepared after graduation -- seems to defeat the whole point of the transcript, i.e., an official record of everything the student does while enrolled at an institution, while it is happening. The implication seems to be that no transcript would be prepared for students who do not manage to graduate (Goldman, 1986, p. 2).

The Division's staff consultant agreed with the other members of the visiting team that the institution met only half of the 111 standards required of it, yet he voted to reauthorize the institution -- as he did similar institutions throughout his tenure in the Division until his recent retirement.

The Division's second problem with the new authorization standards has been meeting the law's deadline of June 1987 for reviewing all previously authorized institutions. It was unable to meet that deadline, in part because of delays occasioned by the need to involve staff of the Postsecondary Education Commission fully in the process; but it has now reviewed 54 of those that sought reauthorization. According to Barankin, of the 54:

- Forty-two have been granted authorization;
- Five were denied authorization, of which two were referred to the Attorney General and two to the legal office of the Department, and one is appealing its denial to the Council for Private Postsecondary Educational Institutions.
- Seven are still in process, either because the Division has not yet made a decision or the institution is seeking to take corrective action in response to the visiting team's report -- a process that may involve many months, including a revisit before the team submits its final recommendation to the Superintendent.

An additional 13 have not yet been reviewed under the provisions of Section 94310.3, 12 of them because they are changing their classification to out-of-state accredited under Section 94310.1(b) or to a school of theology under Section 94310.4, and one because it has changed its name and location.

The major unfinished business regarding the new authorization standards is final Office of Administrative Law approval of the enforceable regulations that the Division is supposed to use in authorizing institutions to operate. The Division held a hearing on a second draft of these regulations this past December, and the Division expects the Office to approve them soon. The Commission hopes that institutions denied reauthorization will not be able to challenge successfully their denial on the basis of the lack of these regulations.

Schools of theology authorized under Section 94310.4

Apart from the issues of confusion, inadequacy, and redundancy that this section of the law causes, the major issue concerning its implementation is whether the Division limits authorization to institutions that award degrees "primarily in theology and other areas of religious study," as required in the statute or restrict their education "primarily to courses or curriculum in theology or ministry," as specified in Section 18800 (g) of Title 5 of the California Administrative Code. Clearly, most of the 12 that the Division has authorized thus far do so, but one of them -- Ambassador College in Pasadena -- seems less a school of theology than a Christian liberal arts college. Ambassador awards "associate *of arts* in theology" and "associate *of science* in theology" degrees, rather than "associates *of* theology." It grants a "bachelor *of arts* in theology" rather than a "bachelor *of* theology." It offers minors in business administration, elementary education, English, French, German, home economics, mass communication, modern Hebrew, and Spanish. And in all of these programs, its arts and science courses equal if not surpass in number those in theology.

No one familiar with Ambassador would question its commitment to the liberal arts and to a well-rounded, balanced education. No one could question its aim "to provide job entry training in selected vocational and technical areas" such as business and computers and "to provide foundational coursework for further education in professional and technical disciplines" as well as to provide pastors and a God-called ministry for the Worldwide Church of God. But questions may be raised about its authorization as a "school of theology" rather than "college" in light of its degree programs -- even if not in light of its name of "Ambassador College" rather than "Ambassador School of Theology."

As other colleges and universities seek to shift their classification from college or university to school of theology, and thereby avoid meeting the educational standards of State-authorized colleges and universities, the Commission believes that the Division should ensure that they award degrees "primarily in theology and other areas of religious study."

Enforcement of the law

"There's so much profit to be made from selling degrees that the risks are worth taking," says a staff member of the Division who has run one of its major regulatory programs. And a member of the Council for Private Postsecondary Educational Institutions agrees: "If an institution is engaged in criminal activity, the State can shut it down -- snap! -- like that. But if it's not living up to what it promises, it is usually very profitable and can hire attorneys to keep it open for years through one appeal after another, and meanwhile offering degrees all the while."

This problem seems to the Commission particularly severe because the Division has been operating on "standards" and "guidelines" that have not been approved by the Office of Administrative Law and are therefore likely to be ruled unenforceable. Section 11347.5 of California's Government Code provides that no State agency can enforce any "guideline" which is used by the agency as a regulation unless that agency promulgates that guideline as a regulation under Section 11342 of the Code (Holland, 1986, p. 2).

As noted earlier, the wheels of justice regarding the Private Postsecondary Education Act grind exceedingly slow. By the time a staff consultant can document to the satisfaction of the Legal Office of the Department or the Office of the Attorney General that an institution is operating illegally or has not accomplished the corrective measures needed for reauthorization, and the case then comes to a hearing, the consultant may have retired or died. More often, consultants lack time to gather enough documentation to permit the Legal Office and the Attorney General to make a strong enough case with which to proceed.

According to the Office of the Attorney General, the Division's past procedures in handling renewals of authorization and approval may allow successful challenges to these denials. Until recently, the Division allowed institutions that it judged were not in compliance with the law to continue to operate without renewed licenses. Yet by treating non-complying institutions like licensees and allowing them to continue to operate without a license rather than renewing their license temporarily with qualification, it has opened itself to charges that it is allowing unlicensed operation by some institutions while seeking to remove the licenses of others.

Unfortunately, the courts will generally not enjoin the operation of unlicensed institutions if their operators can show that an agency like the Division has routinely permitted unlicensed operation by other institutions. To prevent this possibility, the Division should have renewed institutions' authorization by attaching some such statement as this:

> Renewal of this license does not constitute a waiver of any deficiencies of which the licen-

> see has received notice and does not constitute a finding that the licensee is currently in compliance with licensing requirements. Existing noncompliance may lead to license revocation action.

Such conditional renewals prevent the Division from allowing unlicensed institutions to operate and thereby preserve its power to insist that any institution that is unlicensed under other circumstances must cease operation immediately. These renewals also prevent an institution from claiming that it was in full compliance with the Division's regulations at the time of renewal. In addition, they demonstrate that the Division is complying with the Education Code, since the Division renews such a license only to allow a proper determination of the licensee's status.

The Division has assured the Commission that it is now reauthorizing and reapproving institutions on this basis. Nonetheless, the integrity of California's degrees will be subject to question for years to come if the Division's past renewal methods prevent successful enforcement of present denials.

Conclusion

The State of California does not pay to implement the Private Postsecondary Education Act of 1977, which accounts in part for its inadequate implementation.

The State expects private institutions to fund implementation at rates far higher than those imposed by other states, without weighing the cost of this policy in weakened regulation.

It expects staff in the Private Postsecondary Education Division to regulate these institutions while serving as consultants to them.

It unrealistically expects leadership from the Council for Private Postsecondary Educational Institutions and its Superintendents of Public Instruction in solving its self-imposed difficulties.

In addition it has permitted confusion over the comparability of accredited and State-approved institutions by inadequate review of approved institutions.

As a consequence, the State has compounded the weaknesses of the act itself and raised questions about the meaning of California's academic degrees that may not be laid to rest until the next century.

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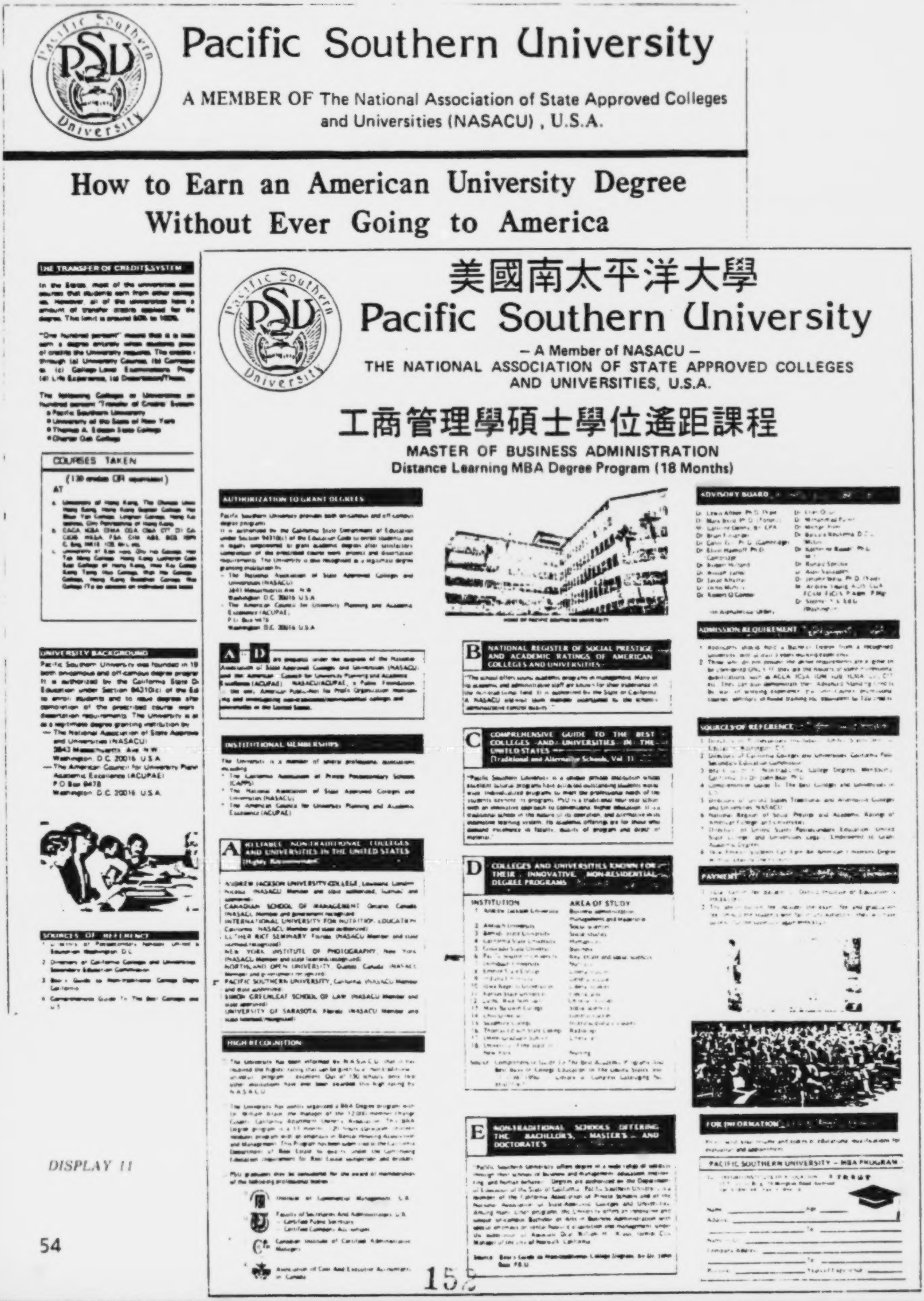

Pacific Southern University

A MEMBER OF The National Association of State Approved Colleges and Universities (NASACU), U.S.A.

How to Earn an American University Degree Without Ever Going to America

THE TRANSFER OF CREDITS SYSTEM

COURSES TAKEN

AT

UNIVERSITY BACKGROUND

SOURCES OF REFERENCE

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工商管理學碩士學位遙距課程

MASTER OF BUSINESS ADMINISTRATION
Distance Learning MBA Degree Program (18 Months)

AUTHORIZATION TO GRANT DEGREES

- The National Association of State Approved Colleges and Universities (NASACU)
- The American Council for University Planning and Academic Excellence (ACUPAE)

INSTITUTIONAL MEMBERSHIPS

- The California Association of Private Postsecondary Schools (CAPPS)
- The National Association of State Approved Colleges and Universities (NASACU)
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HIGH RECOGNITION

B NATIONAL REGISTER OF SOCIAL PRESTIGE AND ACADEMIC RATINGS OF AMERICAN COLLEGES AND UNIVERSITIES

C COMPREHENSIVE GUIDE TO THE BEST COLLEGES AND UNIVERSITIES IN THE UNITED STATES
(Traditional and Alternative Schools, Vol. 1)

D COLLEGES AND UNIVERSITIES KNOWN FOR THEIR INNOVATIVE NON-RESIDENTIAL DEGREE PROGRAMS

INSTITUTION — AREA OF STUDY

E NON-TRADITIONAL SCHOOLS OFFERING THE BACHELOR'S, MASTER'S AND DOCTORATES

ADVISORY BOARD

ADMISSION REQUIREMENT

SOURCES OF REFERENCE

PAYMENT

FOR INFORMATION

PACIFIC SOUTHERN UNIVERSITY – MBA PROGRAM

DISPLAY 11

5

Conclusions

"How to Earn an American University Degree Without Ever Going to America"

The advertisements reproduced on the opposite page from Summer 1988 issues of the Hong Kong *Economic Journal* depict Pacific Southern University -- a California university that awards bachelor's and masters' degrees in business administration and engineering. Pacific Southern conducts a worldwide program of independent directed study. Its twelve-month Hong Kong program that leads to the Bachelor of Business Administration is "designed specifically to serve the unique needs of business executives in Hong Kong," who pay fees of approximately $3,800. Its eighteen-month Master of Business Administration program costs Hong Kong executives about $5,125.

Pacific Southern has been authorized throughout the 1980s to award degrees by California's Superintendent of Public Instruction on the assurance that its statements about itself are accurate.

- Pacific Southern terms the five-story building pictured in its advertisements the "Home of Pacific Southern University." The University at one time rented a suite in that building. For the past three years, however, it has operated out of three rooms on the second floor of a three-story building at 9581 West Pico Boulevard.
- Pacific Southern implies in its advertisements and its admission application booklet, *Off Campus Alternatives to Higher Education*, that it is accredited. Under the heading "Authorization and Accreditation" (Display 12, p. 56), it states that it is "recognized as a legitimate degree granting institution by the National Association of State Approved Colleges and Universities" and "The American Council for University Planning and Academic Excellence." Neither of these organizations, if they still exist, was ever a recognized accrediting agency. Both were created by M. de la Croix de Lafayette, who operated the Association out of the former Icelandic embassy in Washington and the Council out of a post office box. Both stopped operating there several years ago.
- Despite its membership in the supposed Association, Pacific Southern is not "approved" by the Superintendent of Public Instruction. Instead it is merely authorized to grant degrees.

These facts might raise some question about the meaning of a Pacific Southern degree, if a prospective student were aware of them.

They might also raise questions about how Pacific Southern could operate 30 different degree programs out of its one suite of offices -- programs as diverse as telecommunications management, economics, computer science, school administration, general engineering, literature, health care facility management, journalism and mass communications, occupational safety and health, psychology, public administration, and business administration with emphases in accounting, marketing, finance, and industrial management.

These and other facts also raise questions about the meaning of California's authorization process.

- If you call the Private Postsecondary Education Division to ask about Pacific Southern's status, you will be told that Pacific Southern is authorized.
- But if you study the Division's list of authorization actions, you will find that Pacific Southern's authorization has been automatically terminated.
- The Division's file on Pacific Southern fails to clarify this discrepancy. It contains a copy of a November 9, 1987, letter informing the president of Pacific Southern that the institution's authorization had been terminated. It also shows that four weeks later, on December 4, 1987, Pacific Southern's president and attorney met with the director and a staff member of the Division and the legislative representative of the California Association of Private Postsecondary Schools to discuss its continued authorization. It also

DISPLAY 12 *Statement in Pacific Southern University Booklet, "Off Campus Alternatives to Higher Education"*

Authorization And Accreditation

Pacific Southern University is authorized by the California State Department of Education under Section 94310(c) of the Educational Code to enroll students and issue degrees after the appropriate satisfactory completion of the prescribed coursework, thesis and dissertation requirements.

The University is also recognized as a legitimate degree granting institution by:

The National Association of State Approved
Colleges and Universities (NASACU)
3843 Massachusetts Avenue, N.W.
Washington, D.C. 20016

The American Council for University Planning
and Academic Excellence (ACUPAE)
P.O. Box 9478
Washington, D.C. 20016

The address for verification of authorization by the State of California is:

Office of Private Postsecondary Education
State of California Department of Education
721 Capitol Mall
Sacramento, California 95814
(916) 445-3427

Transfer Credit Policies

Transfer credit to other university and college programs by graduates of P.S.U. is at the discretion of the receiving college or university. No general statement can be made for any specific institution, however, there are several colleges and universities who have indicated to NASACU that they are willing to evaluate credits earned through independent study. Among those schools are Michigan State University, Upper Iowa University, Bethany College, The Regent's Program of the State University of New York, Armstrong College and many others. A complete listing is given in the Directory of United States Traditional and Alternative Colleges and Universities published by NASACU, 3843 Massachusetts Avenue, N.W., Washington, D.C. 20016, U.S.A. Copies of the directory are available from the association for a nominal fee.

Source: Pacific Southern University, p. 10.

indicates that 13 months later -- on January 12, 1989 -- the staff of the Division telephoned Pacific Southern's president to ask what he thought its authorization status was and learned that he assumed "everything was okay" because he had heard nothing further from the Division since that meeting. The file ends with a January 23, 1989, staff recommendation that the Division "render a decision about the school's status and implement that decision."

In short, four years after Pacific Southern applied for reauthorization, it continues to award degrees, while the Division has yet to decide what to do about it.

The case of Pacific Southern epitomizes California's problem in ensuring the integrity of its degrees and diplomas.

Why doesn't California ensure honesty in college and university advertising, catalogs, and degrees?

And why doesn't the Private Postsecondary Education Division enforce Section 94312(b) of the Education Code that prohibits institutions and their agents from utilizing "advertising of any type that is erroneous or misleading, either by actual statement, omission, or intimation"?

Previous pages have offered some clues, including weaknesses in the law itself, apparent lack of concern of State officials, lack of leadership within the private postsecondary education industry, limited funds, lack of staff, and low priorities of the agencies involved.

The most immediate and critical reason, however, may be simple confusion by both State officials and educators themselves over educational standards and educational integrity. This confusion seems to stem from disagreement over the meaning of two words that have been at the center of California's regulatory problems for the past two decades -- the phrase *nontraditional education*. Educators in none of the other 49 states embraced the idea of nontraditional education during the 1970s more enthusiastically than those in California, and no state has suffered more problems as a result.

Impact of nontraditional education

The nontraditional movement of the 1970s in American higher education -- epitomized by the spread of "external degrees" -- sought to make colleges and universities more responsive to the needs of adult learners. According to a 1975 report by the Commission on Non-Traditional Study, which was chaired by Samuel Gould, chancellor emeritus of the State University of New York, the movement

> puts the student first and the institution second, concentrates more on the former's need than the latter's convenience, encourages diversity to individual opportunity rather than uniform prescription, and deemphasizes time, space, and even course requirements in favor of competence and, where applicable, performance (1975, p. xv).

That orientation stimulated a much-needed reassessment of academic convention and tradition, particularly those of class-hour chair-sitting and credit-hour accumulation. Its structural innovations -- including the Regents External Degree Programs and Empire State College in New York, Thomas A. Edison College in New Jersey, Minnesota Metropolitan University, the Consortium of the California State University, and the University Without Walls of the Union for Experimenting Universities and Colleges -- created new means for Americans to demonstrate their skills and receive academic credit for these skills, but they also complicated the task of detecting educational fraud.

As long as an academic degree signified a certain amount of chair-setting or credit hours as well as a certain level of competence, academic fraud was relatively easy to identify. Everyone recognized that truly "earned" degrees were awarded only after a period of resident study. In contrast to honorary degrees and to purchased degrees, "real" degrees required classroom attendance. Thus the federal government was able to warn foreign nationals about degree mills by proclaiming that "in the United States no reputable institution of higher education confers degrees solely on the basis of correspondence study" (United States Office of Education 1971).

But as the United States accepted the nontraditional idea that academic degrees could signify competence regardless of any period of academic institutionalization -- an idea that stemmed originally from the creation in 1836 of the University of London as the world's first external degree-granting institution -- the traditional distinction between "legitimate and reputable" degrees on the one hand and "fraudulent and meaningless" degrees on the other became murky, and the opportunity for chicanery increased. If one degree assured its holder as many salary increments as another, why not buy the least expensive?

The Commission on Non-Traditional Study itself warned in 1975 that although the nontraditional approach "can stimulate exciting and high-quality educational progress; it can also, unless great care is taken to protect the freedom it offers, be the unwitting means to a lessening of academic rigor and even to charlatanism" (p. xv). And seven years ago, the California Postsecondary Education Commission stated (January 1981, p. 8):

> The practice of assessing an individual's work and non-work experiences for learning and

> granting college credit toward a degree, a practice found at many (if not most) very reputable universities, is nevertheless quite easily abused. Inappropriately followed and used to excess, the practice has become the basis upon which degree mills have been able to operate with a veneer of legitimacy.

To ensure the integrity of their degrees, the pioneering nontraditional institutions relied on traditional academic standards. They convened groups of professors from other institutions to define the content of the new degrees, write the examinations that were to certify competence, and often read the completed examinations to ensure an outside check on competence. That is, they separated the administration of the institution from academic decisions about individual students, and they sought to avoid basing institutional financing on these academic decisions. Many other institutions have done so since. In California, for instance, some of them have invited professors from established universities to serve as external examiners in assessing the achievement of their graduates, and the Senior Commission of WASC has accredited two of them -- Saybrook Institute in San Francisco and The Fielding Institute in Santa Barbara. In contrast, some other institutions make money by lacking academic requirements and the speed by which they grant degrees. For example, one State-authorized institution several years ago was paying its faculty members a bounty of $200 for every student they recruited -- but then only $400 to get the student through the "program," regardless of how much time the faculty member took to do so.

California might have avoided some of this problem had it followed the lead of New York State with its Regents External Degree Program or taken the advice of the California Legislature's 1970-1973 Joint Committee on the Master Plan for Higher Education, which proposed creation of a "fourth" public segment of higher education "to coordinate the efforts of the segments in extended learning and to provide programs under its own auspices when there are needs the segments are not meeting" (1973, p. 57).

California could have avoided the problem still further by strengthening its minimum standards for authorizing degree-granting institutions before 1984. But it could have avoided the problem even more had some of the staff of the Private Postsecondary Education Division not confused nontraditional means and ends in education. Rather than encouraging innovative means to achieve traditional educational goals, they have tolerated lack of achievement in the name of innovation and experimentation.

One of the Division's staff consultants has tried to help other members of the staff prepare for visits to institutions applying for State approval by explaining that "PPED [the Private Postsecondary Education Division] uses two bipolar terms to describe the range of possible structures which may result from particular philosophical positions -- traditional and nontraditional." He explains the differences as follows:

> Q: What is considered a typical traditional structure?
>
> A: Those components which the general public typically associate with conservative institutions: a campus-like setting, well defined and generally practiced curricula, face-to-face instruction, textbooks, examinations, and the like.
>
> Q: What is considered a nontraditional institution?
>
> A: Those components which significantly depart from what the general public associate with conservative institutions -- typically off-campus programs, student-designed curricula, with little or no formal face-to-face instruction, student selected materials, no examination, considerable recognition of life experience and the like.
>
> Q: Why should PPED be concerned with the traditional and nontraditional nature of institutions?
>
> A: Traditional institutions typically meet the superintendent's criteria in noncontroversial terms and approval status is therefore easily explainable. Nontraditional institutions are not easily understood and are therefore difficult to explain to inquirers (Krear, 1987, p. 3-4).

The major weakness of these statements is their claim that traditional institutions use "examinations" while nontraditional institutions do not. To the contrary, for 150 years nontraditional education has been founded on the need for careful, rigorous, and comprehensive examinations. Such assessments have been at the very core of every adequate nontraditional institution since the founding of the University of London. Indeed, examinations are an even more essential characteristic of a nontraditional college or university than a conventional one, since nontraditional institutions have so few other educational characteristics to encourage the achievement of their students.

It was probably inevitable that as part of the nontraditional movement some educators in California would toss the notion of examinations out with the bathwater of tradition. But it was particularly unfortunate that some of the staff of the Division did so. Their assumption that State-approved institutions in California can operate without assessing the achievement or competence of their students explains as much as anything why the integrity of so many California degrees is suspect.

The primary theoretician of nontraditional education in the United States -- Cyril O. Houle, professor emeritus of the University of Chicago and author of *The External Degree* (1973) -- has told the Commission:

> In the the late 1960s and 1970s, American educators created new and challenging forms of teaching and evaluation of accomplishment to overcome the limiting effects of established university patterns that denied the benefits of higher education to many talented people. For want of a better term, these endeavors were loosely called "nontraditional" education. Today I would hope that the term is not a codeword signifying a cheap or spuriously convenient way of getting a diploma or a degree without providing the education that such a credential should signify. Such a usage would be directly contrary to the aspirations of the pioneers of the 1960s and 1970s.

Consequences of inaction

The unfortunate result of California's laxity is evident in the reaction of other institutions to its degrees. One of California's largest non-accredited universities applied to the State of Minnesota for permission to offer its external degree program to Minnesota residents. It sent Minnesota officials the project reports by five of its graduates as part of its application. In turn, those officials asked professors at midwestern institutions outside of Minnesota to evaluate the materials. The responses were uniformly negative:

William K. LeBold, Director, Engineering Education Research Studies, Department of Freshman Engineering, Purdue University: Although Mr. ____ may be quite competent as a technician or even as a design engineer, it is inconceivable that on the basis of the Independent Study project he could be awarded the BS degree in electrical engineering. To do so makes a mockery of standards in engineering and higher education.

Irving Spergel, Professor, School of Social Services Administration, University of Chicago: My comments are directed primarily to the student's independent study project or "thesis submitted in fulfillment of the requirements for the Degree of Masters in Marriage and Family Counseling". . . . In my view the student's independent study project does not meet a level and breadth appropriate to the master of arts degree. It also does not meet objectives established by ____University itself: "On the Master's Level, the degree is awarded on the basis of the student's showing that he or she is able to apply knowledge of the field to real life situations. There is emphasis on depth of knowledge in a specific aspect of the field or fields of study, as applied to some aspect of the world around us." The student's project is too thin and inadequately developed to meet these specific University or more general academic standards for a Master's degree.

Ralph Westfall, Dean, College of Business Administration, University of Illinois at Chicago Circle: You asked that I evaluate the work submitted for completion of a Doctor of Philosophy degree in Business Administration by Ms. ____ . . . The Independent Study project is a report which was initially submitted by the student to a financial institution analyzing the economic feasibility of a particular intermediate care nursing home which was seeking a loan from the financial institution. The report is 15 pages in length and contains a considerable amount of numerical data on costs and revenues that might be expected with the proposed nursing home. This is probably similar to thousands of like reports prepared analyzing loan applications throughout the country. This is not a Ph.D. thesis. There is no conceptual problem involved, the project makes no addition to the field of knowledge, and the level of analysis is elementary. . . . There is no way that I could consider this project to represent a Ph.D. thesis or the overall work that the student has apparently done could represent a Ph.D. program. To give a Ph.D. degree on the basis of the work presented here would be an extreme misuse of that academic degree designation.

Harl H. Young, Professor, School of Professional Psychology, University of Denver: I am not sure whether I am to evaluate the Ph.D. program offering in psychology by ______University or the specific materials by this particular student. However, I will report to you at the outset that neither is adequate according to commonly accepted standards. . . . The document presented in this case is a grant application. The project itself is due to be completed this month and we have no report of the outcome. The project itself purports to show that those who receive instruction and training in helping battered wives will do so more effectively than those who do not receive such training and instruction. One can hardly consider this study, while obviously timely and of interest, an original contribution to knowledge -- the original intent of the doctoral dissertation. . . . In conclusion, there is no doubt based only on the materials available to me that this is an unacceptable level of quality of work normally expected for the Ph.D.

John C. Buhner, Professor of Health Administration and Political Science, Indiana University Medical Center: I understand that you would like an evaluation as to whether the work submitted by Mr. ____ constitutes a reasonable equivalent to that generally required for the award of a master's degree in health services administration. On the basis of the materials you sent me . . . , I could not make such an evaluation; the work by Mr. ____, while it has some value, is in my opinion (1) strictly undergraduate in nature, (2) limited largely to epidemiological, historical, and administrative factors, (3) lacks the content and quality I would regard as minimal for graduate work beyond the baccalaureate level, and (4) does not appear to me to constitute an equivalence for any higher education degree or certificate. . . . In my opinion, to recognize officially a degree such as that under discussion here is to make a mockery of over a century of progress in developing specialized programs of academic and professional graduate study. To certify such degrees to the public as valid evidence of academic or professional preparation is fraudulent and a miscarriage of public service in higher education. Of equal concern to me is the fact that individuals such as Mr. ____ are used in what seems to me to be a blatant money-making scheme playing upon legitimate ambitions of individuals and upon appropriate expectations by the public.

As a result of these evaluations, Minnesota has denied permission for this California State-approved university to enroll Minnesota residents. Meanwhile the university claims in its brochures that "scholars around the country have consistently rated the quality of work done by [our] students as equal to or better than that produced by students attending traditional colleges and universities."

Without improving the implementation of its laws governing private postsecondary education, California will retain its reputation throughout the country and the world for tolerating questionable credits and discount diplomas, and it will continue to be unable to ensure the integrity of its degrees and the protection of its citizens who depend on that integrity.

Appendix A

Private Postsecondary Education Act of 1977, as Amended

NOTE: The following text is reproduced from *West's Annotated California Codes, Education Code Sections 87000 to End*, pp. 602-637, and *Volume 28B, 1989 Cumulative Pocket Part*. St. Paul West Publishing Co., 1989, pp. 166-198.

Chapter 3 is a portion of Part 59 of Division 10 of the Code's Title 3 on Postsecondary Education.

CHAPTER 3

PRIVATE POSTSECONDARY INSTITUTIONS

ARTICLE 1

GENERAL PROVISIONS

§ 94300 Short title

This chapter shall be known and may be cited as the "Private Postsecondary Education Act of 1977."

§ 94301 Legislative intent

It is the intent of this Legislature to encourage privately supported education and protect the integrity of degrees and diplomas conferred by privately supported as well as publicly supported educational institutions.

It is also the intent of the Legislature to encourage the recognition by tax-supported institutions of work completed and degrees and diplomas issued by privately supported institutions, to the end that students may have equal opportunities for equal accomplishment and ability.

In the present period, the need for educational services is so great that it cannot be met by tax-supported institutions alone. The contribution of privately supported educational institutions to the preservation of our liberties is essential. These objectives can best be achieved by protecting the integrity of degrees and diplomas issued by such institutions.

§ 94302 Definitions

As used in this chapter, unless the context requires otherwise:

(a) "Agency" means a business entity established for the purpose of recruiting students for enrollment in a private postsecondary school as defined in this chapter, and any other business entity engaged in that activity with the exception of the educational institution itself.

(b) "Agency authorization" means a written document issued by the Superintendent of Public Instruction authorizing a business entity to engage in the recruitment of students for enrollment in private postsecondary institutions authorized or approved under this chapter.

(c) "Agent" means any person who, at a place away from the principal school premises or site of instruction, whose primary task is to serve as a paid recruiter, while owning an interest in, employed by, or representing for remuneration or other consideration a private postsecondary educational institution located within or without this state, offers or attempts to secure enrollment of any person within this state or accepts application fees or admissions fees for education in an institution. Administrators and faculty who make informational public appearances are exempted from this definition.

(d) "Agent's permit" means a nontransferable written document issued to an agent pursuant to the provisions of this chapter by the Superintendent of Public Instruction.

(e) "Approval to operate" means that the institution so approved has met recognized and accepted standards as determined by the Superintendent of Public Instruction in carrying out the provisions of this chapter to operate a postsecondary educational institution in this state.

(f) "Authorization to operate" means that the institution so authorized has been granted permission by the Superintendent of Public Instruction to operate as a postsecondary educational institution.

(g) "Council" means the Council for Private Postsecondary Educational Institutions established pursuant to Section 94304.

(h) "Degree" means any "academic degree" or "honorary degree" or title of any designation, mark, appellation, series of letters or words such as, but not limited to, associate, bachelor, master, doctor, or fellow which signifies, purports, or is generally taken to signify satisfactory completion of the requirements of an academic, educational, technological, or professional program of study beyond the secondary school level or is an honorary title conferred for recognition of some meritorious achievement.

(i) "Diploma" means any "diploma," "certificate," "transcript," "document," or other writing in any language other than a degree.

(j) "Education" or "educational services" includes, but is not limited to, any class, course, or program of training, instruction, or study.

(k) "Superintendent" refers to the Superintendent of Public Instruction.

(*l*) "To offer" includes, in addition to its usual meanings, advertising, publicizing, soliciting, or encouraging any person, directly or indirectly, in any form, to perform the act described.

(m) "To operate" an educational institution, or like term, means to establish, keep, or maintain any facility or location in this state where, from, or through which educational services are offered or educational degrees or diplomas are offered or granted.

(n) "Postsecondary educational institution" or "institution" includes, but is not limited to, an academic, vocational, technical, business, professional, home study school, college, or university, or other organization (comprised of a person, firm, association, partnership, or corporation) which offers educational degrees or diplomas, or offers instruction or educational services primarily to persons who have completed or terminated their secondary education or who are beyond the age of compulsory high school attendance. Auxiliary organizations of the California State University and Colleges are not included within this division and are not governed by this article.

(o) "Vocational objective" means an objective which is ordinarily attained upon completion of a course which qualifies the person or leads to employment in a recognized occupation listed in the latest "Dictionary of Occupational Titles," issued by the United States Department of Labor, or declared by that department to be eligible for such listing, or leading to an employable objective determined by the council.

(p) "Professional objective" means an objective which ordinarily is attained upon the completion of a curriculum or program of studies leading to a recognized profession or semiprofession.

(q) "Educational objective" means an objective which ordinarily is attained upon the completion of a program consisting of any curriculum, or any combination of unit courses or subjects offered by an educational institution which normally leads to earning a college degree.

(r) "Technological objective" means one which is ordinarily attained upon completion of a curriculum or program of studies which emphasizes the application of principles to the solution of practical problems rather than the theoretical development of those principles.

(s) "Accredited" means that an institution has been recognized or approved as meeting the standards established by an accrediting agency recognized by the federal Department of Education or the Committee of Bar Examiners for the State of California. It shall not include those institutions which have applied for accreditation and are candidates for accreditation or have provisional accreditation.

(t) "Occupational skill, knowledge, or ability" means any fundamental or advanced competency which increases an individual's employability or potential, effectiveness, or expertise in a vocation or profession, including, but not limited to, self-employment, business, or financial ventures.

(u) "Instruction" includes any specific, formal arrangement by an institution for its enrollees to participate in learning experiences wherein the institution's faculty or contracted instructors present a planned curriculum appropriate to the enrollee's educational program.

(v) "Certificate of authorization for service" means a written, nontransferable document issued by the superintendent authorizing an individual to be an instructor or administrator in any private postsecondary institution in California which is approved under subdivision (d) of Section 94311.

§ 94303 Exemption from provisions of chapter

The following education and educational institutions, and these only, are exempted from the provisions of this chapter:

(a) Education solely avocational or recreational in nature, and institutions offering this education exclusively.

(b) A nonprofit institution owned, controlled, and operated and maintained by a bona fide church or religious denomination if the education is limited to instructions in the principles of that church or denomination, or to courses offered pursuant to Section 2789 of the Business and Professions Code,* and the diploma or degree is limited to evidence of completion of that education, and the meritorious recognition upon which any honorary degree is conferred is limited to the principles of that church or denomination.

(c) Institutions exclusively offering instruction at any or all levels from preschool through 12th grade.

(d) Postsecondary educational institutions established, operated, and governed by the federal government or by this state or its political subdivisions.

(e) Education sponsored by a bona fide trade, business, professional, or fraternal organization predominantly for that organization's membership.

(f) Except for the provisions of subdivision (b) of Section 94311; Sections 94312, 94320, 94321, and 94332; paragraph 1 of subdivision (a) and subdivisions (b) to (f), inclusive of Section 94333; Sections 94335 to 94339, inclusive; 94342; and 94343, institutions or persons approved by the Federal Aviation Administration, or its successor agency, offering flight education and instruction.

§ 94304 Council for private postsecondary educational institutions

(a) There is in the State Department of Education a Council for Private Postsecondary Educational Institutions consisting of 15 members, selected as follows:

(1) The superintendent or his or her designee shall be a member, and the superintendent shall appoint four members. Two shall be members of the general public, one with a strong interest in developing private postsecondary education, and one representative of business that employs persons in positions requiring vocational or technical education. Two shall be administrative heads of institutions, one representing a nonaccredited degree granting school operating pursuant to subdivision (2) or (3) of Section 94310 and one representing a nonaccredited, non-degree granting school operating pursuant to subdivision (d) of Section 94311.

(2) The Senate Rules Committee shall appoint five members. Two shall be members of the general public, one with a knowledge of private vocational education, and one representative of a labor organization that represents persons with vocational or technical training. Three shall be administrative heads of institutions, one representing a nonaccredited, degree granting school operating pursuant to subdivision (2) or (3) of Section 94310, one representing a non-degree granting school operating pursuant to subdivision (c) or (d) of Section 94311, and one representing an accredited out-of-state postsecondary educational institution operating in California pursuant to paragraph (b) of subdivision (1) of Section 94310.

(3) The Speaker of the Assembly shall appoint five members. Three shall be members of the general public with an interest in developing private postsecondary vocational and technical education. Two shall be administrative heads of institutions, one representing an accredited, non-degree granting

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* Section 2789 of the Business and Professions Code exempt from the provisions of Chapter 6 on nursing of the Business and Professions Code "any school or schools conducted by any well recognized church or denomination for training the adherents of such church or denomination in the care of the sick in accordance with its religious principles."

school operating pursuant to subdivision (c) of Section 94311, and one representing a nonaccredited, non-degree granting school operating pursuant to subdivision (d) of Section 94311.

(4) In addition, the following shall serve as ex officio members of the council:

(A) The Director of the Department of Consumer Affairs, or his or her designee.

(B) The Director of the Department of Employment Development, or his or her designee.

(C) The Director of the California Postsecondary Education Commission, or his or her designee.

Ex officio members have no vote.

It is the intent of the Legislature that the council shall provide leadership and direction in the continuing development of private postsecondary education as an integral and effective element in the structure of postsecondary education in California. The work of the council shall at all times be directed toward maintaining and continuing, to the maximum degree permissible, private control and autonomy in the administration of the private postsecondary schools and colleges in this state.

(5) Administrative heads of institutions appointed under paragraphs (2) and (3) may be selected from lists submitted by an association or associations of institutions governed under this chapter which has at least 30 members.

(6) Public members appointed under paragraphs (1), (2), and (3) shall not be retained or employed by any secondary or postsecondary educational institution or system when appointed or during their term of appointment.

(b) The first members shall be appointed on or before January 15, 1982, and the superintendent shall designate the date of the first meeting of the council.

The terms of office of the members of the council shall commence on January 15, 1982, and the members shall enter upon their terms of office by lot so that the terms of five members shall expire on January 15, 1983; the terms of five members shall expire on January 15, 1984; and the terms of five members shall expire on January 15, 1985.

The terms of the members of the council shall be four years. No appointee shall serve on the council for more than eight consecutive years.

Any member of the council who misses two consecutive regular meetings of the council without cause forfeits the office, thereby creating a vacancy.

At the first meeting of the council, and annually thereafter, the members shall select one of their number to serve as chairperson and one to serve as vice chairperson. The vice chairperson shall preside over all meetings of the council in the absence of the chairperson.

(c) Any vacancy on the council shall be filled in the same manner as provided for appointment of council members in subdivision (a). The appointee to fill a vacancy shall hold office only for the balance of the unexpired term.

(d) Appointed members of the council shall receive no compensation but shall receive their actual expenses for attendance at official council meetings, and when on official council business approved by the Superintendent of Public Instruction, not to exceed State Board of Control expense allowances.

(e) The council shall determine the time and place of council meetings which shall not be fewer than six times in each calendar year.

(f) The council shall:

(1) Advise the superintendent on the establishment of policy for the administration of this chapter.

(2) Establish a process, in cooperation with the superintendent, for the development and promulgation of rules and regulations. The process developed should not be inconsistent with the provisions of this chapter and allow for the input of consumers and institutions.

(3) Adopt procedures necessary or appropriate for the conduct of its work and the implementation of this chapter consistent with rules and regulations.

(4) Review minimum criteria utilized by the superintendent in conformity with subdivisions (2), (3), and (4) of Section 94310 and subdivision (d) of Section 94311 and Section 94312, including quality of education, ethical and business practices, health and safety, and fiscal responsibility, which applicants for approval to operate, or for an agent's per-

mit, shall meet before the approval or permit may be issued, and to continue the approval or permit in effect. Criteria to be developed hereunder shall be such as will effectuate the purposes of this chapter but will not unreasonably hinder legitimate education innovation.

(5) In cooperation with the superintendent, prepare and submit an annual report to the California Postsecondary Education Commission to be used by the commission for the review and inclusion in the annual update of the five-year plan for postsecondary education.

(6) Review appeals and complaints from educational institutions, agents and consumers. Make recommendations to the superintendent regarding the disposition of these appeals and complaints.

(7) Represent private postsecondary educational institutions on the State Occupational Informational Coordinating Committee.

(8) Advise the superintendent regarding the appropriate action to be taken in the event that the visiting committee does not reach a unanimous recommendation on an institution's application for authorization pursuant to subdivisions (3) and (4) of Section 94310.

(g) All actions with the exception of those regarding the operating procedures of the council shall be adopted according to the affirmative vote of the majority of the council and shall be in writing.

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§ 94304.5 Special committeee; standard for review and authorization; development; report by commission to legislature

(a) The Council for Private Postsecondary Educational Institutions shall impanel a special committee of technically qualified persons to develop explicit standards to be used in the review and authorization of private postsecondary institutions which operate pursuant to subdivision (3) of Section 94310 as it existed on January 1, 1982. These standards shall:

(1) Be sufficiently comprehensive so that a determination can be made that the institution has the facilities, financial resources, faculty, and other necessary educational expertise and resources to afford students and require of students the completion of a program of education which will prepare them for the attainment of a professional, technological, or educational objective.

(2) Include a method of determining if the course of study for which the degree is granted achieves its professed or claimed educational objective. Members of this committee shall be administrative heads of institutions operating pursuant to subdivision (3) of Section 94310, as of January 1, 1981.

(b) Members of the special committee shall be selected by the Chair of the Council for Private Postsecondary Institutions, from names submitted by private school associations operating in California as of January 1, 1981. Each private school association which represents institutions operating pursuant to subdivision (3) of Section 94310 shall nominate three individuals to serve on the special committee. The chair of the council shall select from among these nominees so that each association has two representatives on the special committee. The Director of the California Postsecondary Education Commission, or his or her designee, shall also be a member of this special committee.

(c) The special committee shall submit these authorization standards to the council prior to September 1, 1982, for the council's review. If the council determines that the standards effect the purposes of this chapter, the council may recommend adoption of the standards as the requirements for authorization to grant degrees pursuant to subdivision (3) of Section 94310. The council shall take action to accept or reject the standards proposed by the special committee prior to January 1, 1983.

(d) Prior to February 1, 1983, the California Postsecondary Education Commission shall report to the Legislature on the extent to which the proposed standards effect the purposes of this chapter. The commission shall:

(1) Review the adequacy of these proposed standards in providing a method of determining if the course of instruction for which the degree is granted achieves its professed or claimed educational objective.

(2) Compare these proposed standards to provisions which exist in other states.

(3) Determine the extent to which the proposed standards are sufficiently comprehensive and com-

plete so that they protect the integrity of degrees awarded by those institutions.

(e) The members of the special committee shall serve without compensation, and shall not receive any travel costs or per diem.

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§ 94305 Duties of superintendent

It is the intent of the Legislature that the superintendent meet regularly with the council, and that the superintendent work cooperatively with the council in providing leadership and direction in the continuing development of private postsecondary education.

The superintendent shall do all of the following

(a) Establish policy for the administration of this chapter in cooperation with the council

(b) Adopt regulations in cooperation with the council not inconsistent with this chapter governing the exercise of authority comprised by this article which shall be adopted in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(c) Prepare annually a proposed budget for the support of activities of the State Department of Education pursuant to this article. The proposed budget shall be presented to the council for its review and recommendations.

(d) Consult with the council prior to instituting any action to deny, suspend, or withdraw approval or authorization of courses or schools pursuant to this article.

(e) Meet with the council at least twice per year. Take into consideration the advice of the council on all matters where the council is authorized to communicate advice to the director.

(f) Impanel special committees of technically qualified persons to assist the superintendent and the council in the development of standards for education and educational institutions and the evaluation of any application or institution pursuant to this chapter. The special committees shall make such inspections and studies as may be necessary to enable them to advise the council and the superintendent in regard to action to be taken in any particular situation. Members of these special committees shall not be connected in any way with a school which is the subject of inspection or investigation The members of the special committees shall serve at no expense to the state. The actual travel expenses incurred by each member of a special committee shall be reimbursed by the institution which is the subject of inspection or investigation

(g) Publish annually for public distribution a directory of all institutions approved or authorized to operate in this state under provisions of this chapter. The directory shall contain as a minimum, the names and addresses of these institutions, together with a notation of the statute section or sections under which the institution has been authorized or approved.

(h) Negotiate and enter into interstate reciprocity agreements with similar agencies in other states if, in the judgment of the superintendent, such agreements are, or will be, helpful in effectuating the purposes of this chapter. However, nothing contained in any such reciprocity agreement shall be construed as limiting the superintendent's powers, duties, and responsibilities with respect to investigating or acting upon any application for issuance or renewal of any agent's permit or with respect to the enforcement of any provision of this chapter or any rule or regulation promulgated under this chapter. The agreements shall not include institutions authorized to operate under subdivision (b) of Section 94311 nor be in conflict with agreements arranged by the state licensing boards authorized to negotiate the agreements through provisions of the Business and Professions Code.

(i) Receive, investigate, as he or she may deem necessary, and act upon applications for authorization or approval to operate educational institutions and applications for agent's permits.

(j) It is the intent of the Legislature that the superintendent develop, with the cooperation of the council, a program or procedure requiring institutions subject to the provisions of this section to provide evidence assuring the due and faithful performance of agreements or contracts with students and the refund of unearned tuition in the event the school ceases to exist or provide instruction.

(k) Request the Attorney General to bring actions pursuant to paragraph (2) of subdivision (a) of Section 94339 which the superintendent deems are necessary to enforce the provisions of this chapter.

§ 94305.5 Injunction of operation of unapproved or unauthorized instititution or its agent

The superintendent may bring a civil action, in his or her name, to enjoin the operation of a postsecondary educational institution that has not been approved or authorized to operate pursuant to Sections 94310 or 94311, or has not filed affidavits pursuant to Section 94315.

The superintendent may bring a civil action to enjoin the agent of a postsecondary educational institution or any person or entity from conducting, maintaining, or aiding and abetting the operation of a postsecondary educational institution that has not been approved or authorized to operate pursuant to Sections 94310 or 94311, or has not filed affidavits pursuant to Section 94315.

The legal office of the Department of Education may represent the superintendent in actions brought pursuant to this section.

§ 94306 Law applicanble to existing corporations; prior law; prior nonprofit law

(a) Every corporation authorized to issue shares of stock and organized or existing under this article in effect on December 31, 1981, is subject to and deemed to be organized under the General Corporation Law. (Division 1 (commencing with Section 100) of Title 1 of the Corporations Code.)

(b) Every nonprofit corporation without authority to issue shares of stock and organized or existing under this article in effect on December 31, 1981, is subject to and deemed to be organized under either Part 2 (commencing with Section 5110), Part 2 (commencing with Section 7110), or Part 4 (commencing with Section 9110) of Division 2 of Title 1 of the Corporations Code, dependent on the application of Section 9912 of the Corporations Code.

(c) For the purposes of Sections 2300 and 9910 of the Corporations Code, this article is the "prior law" or "prior nonprofit law" and January 1, 1982, is the effective date and the transition provisions shall be applied by reference to that effective date.

ARTICLE 1.5

ACADEMIC AND HONORARY DEGREES

§ 94110 Requirements for issuing, conferring or awarding degrees

No institution may issue, confer, or award an academic or honorary degree unless the institution meets the requirements of at least one of the sections of this article.

§ 94310.1 Accreditation by national or regional accrediting agency; duties of superintendent; standards and procedures for onsite review and licensure

The institution meets the requirements of one or both of the following subdivisions.

(a) The institution, which at the time of the issuance of a degree, has accreditation of the institution, program, or specific course of study upon which the degree is based by a national accrediting agency recognized by the United States Department of Education, the Western Association of Schools and Colleges, or by the Committee of Bar Examiners for the State of California. The institution shall file with the superintendent an annual affidavit of the administrative head of the institution stating that the institution is so accredited. Institutions authorized to operate under this subdivision may issue diplomas and certificates as well as degrees.

(b) Any public or private postsecondary educational institution incorporated in another state that has accreditation from a regional accrediting association recognized by the United States Department of Education at the time of the issuance of a degree, and that is licensed by the superintendent, may issue degrees, diplomas, or certificates. Accredited public or private postsecondary educational institutions incorporated in another state shall not offer degrees, diplomas, or certificates in California unless they comply with the provisions of this section.

(1) The superintendent shall not license an institution to issue degrees, diplomas, or certificates pursuant to this subdivision until he or she has conducted a qualitative review and assessment of and has approved, the operations of the institution in California, and the superintendent has determined all of the following:

(A) The institution has financial resources to ensure the capability of fulfilling the program or programs for enrolled students.

(B) The faculty includes personnel who possess appropriate degrees from institutions accredited by a regional accrediting association recognized by the United States Department of Education in the degree major field or fields offered, in sufficient number to provide the educational services.

(C) The education services and curriculum clearly relate to the objectives of the proposed program or programs, which are comparable programs offered by accredited institutions already operating in this state.

(D) The facilities are appropriate for the defined educational objectives and are sufficient to ensure quality educational services to the students enrolled in the program or programs.

(E) The institution has verifiable evidence of academic achievement comparable to that required of graduates of other accredited institutions operating in this state for the program or programs upon which the degree, diploma, or certificate is based.

(2) All institutions incorporated in another state that were offering educational programs in California and were authorized to operate pursuant to subdivision (a) on December 31, 1985, shall have the option until and including December 31, 1989, of continued operation in California pursuant to authorization under subdivision (a) or through licensure pursuant to this paragraph.

(3) Except as otherwise provided by paragraph (4), the superintendent shall grant licensed status under this section for a period consistent with the postsecondary educational institution's home regional accrediting association, but not to exceed five years. It is the intent of the Legislature that the postsecondary educational institution urge its home regional accrediting association to participate in the licensure process by the state, and that the state's licensure process be conducted whenever possible in concert with the institutional review conducted by the regional association.

(4) The superintendent shall grant licensed status under this subdivision until December 31, 1987, for all other institutions incorporated in another state that offered educational programs in California prior to July 1, 1985, that file with the superintendent within 30 days from October 1, 1985, all of the following information:

(A) A copy of the institution's most recent self-study report prepared for the institution's home regional accrediting association, as well as a copy of the institution's team report prepared by the accrediting association.

(B) A list of the locations of all of the operations of the institution in California.

(C) A list of all degree, diploma, and certificate programs offered by the institution in California, as well as the curriculum, instruction, and faculty utilized in each program.

(D) A list of degrees, diplomas, and certificates offered by the institution.

Institutions licensed under this paragraph shall offer in California only programs that the institution can document to have been acknowledged and favorably reviewed by the home regional accrediting association.

(5) (A) The Director of the California Postsecondary Education Commission shall establish a special committee of persons with demonstrated knowledge of both regional accrediting standards and procedures and the special demands of off-campus programs. The committee shall include representatives from the State Department of Education, institutions incorporated in other states that offer educational programs in California, and public and private California colleges and universities.

(B) The committee shall develop proposed standards and procedures to be used in the onsite review and licensure of institutions applying for licensure under this subdivision subject to the principle that educational innovation and competition shall not be hindered unreasonably.

(C) The committee shall report to the California Postsecondary Education Commission and the Superintendent of Public Instruction by November 1, 1985, regarding the proposed standards and procedures. The commission shall take action on the proposed standards within 60 days of receipt of the report by the special committee. This subdivision shall become inoperative on January 1, 1987, if the commission has not adopted standards and procedures proposed by the special committee by that date.

(D) The committee shall utilize the following principles in the development of these standards and procedures:

(i) Within two years from the enactment of this statute, the State Department of Education shall review the operations of all institutions operating under the provisions of this subdivision section.

(ii) Following the initial state review, subsequent onsite reviews by the superintendent shall be conducted whenever possible in conjunction with institutional reviews by the regional accrediting association. However, if there is substantial evidence that the institution is not in compliance with state standards, the superintendent may initiate a special review of the California operations of the institution.

(iii) Each institution shall submit a single application for all operations in California, and the application shall include a single fee which is institution-based and not sitebased.

(iv) The superintendent shall develop a procedural rationale to justify the number of sites to be visited by the state in the review of the institution's operations in California.

(v) The purpose of the onsite review by the superintendent shall be to determine that operations by the institution in California meet the minimum state standards identified in statute.

(vi) The standards and procedures shall not unreasonably hinder educational innovation and competition.

(E) Prior to March 1, 1987, the superintendent shall utilize all of the standards and procedures recommended by the special committee and acted upon by the commission to develop regulations for the licensure of all institutions operating pursuant to this subdivision.

The regulations shall provide for consideration of the accredited institutions' stated educational goals, purposes, and objectives, in conducting the licensure review of the California operations of out-of-state based institutions.

These regulations, which shall be developed by the superintendent in cooperation with the Council for Private Postsecondary Educational Institutions, shall include a formula to determine the institutional licensure fee and the number of sites to be visited by the state.

The regulations developed by the superintendent shall include all of the procedures and standards recommended by the special committee and acted upon by the commission. Prior to December 31, 1987, the superintendent shall utilize these regulations to review all institutions operating pursuant to this subdivision. In conducting the licensure review of the operation of out-of-state accredited institutions in California, the superintendent shall interpret the regulations based upon each institution's accredited educational purposes and objectives.

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§ 94310.2 Institutional approval by superintendent to award or issue degrees; qualitiative review and assessment; onsite review process

The institution, which at the time of the issuance of a degree, has full institutional approval by the superintendent to award or issue specific professional, technological, or education degrees.

(a) The superintendent shall not approve an institution to issue degrees until he or she has conducted a qualitative review and assessment of, and has approved, each program offered by the institution, and the superintendent has determined, based upon information submitted to him or her, all of the following:

(1) The institution has facilities, financial resources, administrative capabilities, faculty, and other necessary educational expertise and resources to afford students, and require of students,

the completion of a program of education which will prepare them for the attainment of a professional, technological, or educational objective, including, but not limited to, a degree.

(2) The curriculum is consistent in quality with curricula offered by appropriate established accredited institutions which are recognized by the United States Department of Education or the Committee of Bar Examiners for the State of California and issue the appropriate degree upon the satisfactory completion of specific qualitative academic programs.

(3) The course for which the degree is granted achieves its professed or claimed academic objective for higher education, with verifiable evidence of academic achievement comparable to that required of graduates of other recognized schools accredited by an appropriate accrediting commission recognized by the United States Department of Education or the Committee of Bar Examiners for the State of California.

The criteria developed for conducting the review and assessment shall effectuate the purposes of this chapter, but shall not unreasonably hinder legitimate educational innovation.

(b) The superintendent shall conduct the qualitative review and assessment of the institution and all programs offered through a comprehensive onsite review process, performed by a qualified visiting committee impaneled by the superintendent for that purpose. The visiting committee, which shall be impaneled by the superintendent within 90 days of the date of receipt of a completed application, shall be composed of educators from both accredited and state approved institutions. Within 90 days of the receipt of the visiting committee's report and recommendations, the superintendent shall take one of the following actions:

(1) Grant full institutional approval for a period not to exceed three years.

(2) Grant candidate for institutional approval status for a period not to exceed two years plus the remainder of the calendar year in which the application was made. Candidate status may be renewed only one time, at the discretion of the superintendent.

(3) Disapprove the application.

If the application is disapproved, or candidate for institutional approval status is granted, the institution shall be advised of the specific reasons for the action and the specific corrective measures needed to achieve full institutional approval. An institution may not advertise itself as an approved or fully approved institution unless each degree program offered by the institution has been approved in accordance with the requirements of this section.

(c) (1) The superintendent shall grant full institutional approval status for three years to all institutions operating pursuant to subdivision (2) of Section 94310 on June 30, 1984, as it read on that date and which have received full approval of all courses offered.

(2) The superintendent shall grant candidate for institutional approval status for a period not to exceed two years to all institutions operating on June 30, 1984, pursuant to both subdivisions (b) and (c) of Section 94310 as it read on that date. The superintendent shall specify a date, prior to June 30, 1986, by which all institutions operating pursuant to this subparagraph shall file a completed application for either full institutional approval pursuant to this subdivision, or authorization to operate pursuant to Section 94310.3.

(d) The superintendent may authorize any institution approved to issue degrees pursuant to this subdivision to issue diplomas for the completion of courses of study which do not fully meet the degree requirements, but are within the institution's approved degree program.

The superintendent may approve an application to issue honorary degrees if the applicant institution has received full institutional approval to issue academic degrees.

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§ 94310.3 Compliance with standards recommended by council for private postsecondary educational institutions and adopted by superintendent; onsite review process; authorization; probation

The institution has demonstrated that it is in compliance with formal standards recommended by the Council for Private Postsecondary Educational Institutions and adopted by the superintendent, which shall include, but not be limited to, the standards developed by the special committee pursuant to Section 94304.5.

(a) The institution shall demonstrate compliance with the standards through a comprehensive onsite review process conducted by a threemamber visiting committee impaneled by the superintendent for that purpose pursuant to subdivision b. The process shall review all of the following:

(1) Institutional objectives
(2) Administrative methods.
(3) Curriculum
(4) Instruction
(5) Faculty, including their qualifications.
(6) Physical facilities.
(7) Administrative personnel.
(8) Procedures for keeping educational records.
(9) Tuition, fee, and refund schedules.
(10) Admissions standards.
(11) Scholastic regulations and graduation requirements.
(12) Degrees offered.
(13) Financial stability, including that the capital assets of the institution are sufficient for the type, level, and number of degree programs offered and that the current assets of the institution are sufficient to serve the number of students then currently enrolled and to meet any tuition or fee refunds which may reasonably be expected under the institution's refund policy.

(b) Within 90 days of the date of receipt of a completed application, the superintendent shall impanel a visiting committee for the purpose of reviewing the applicant institution. The visiting committee shall be composed as follows:

(1) One member appointed by the director of the California Postsecondary Education Commission.

(2) One member appointed by the superintendent from a list of three names submitted by the Council for Private Postsecondary Educational institutions.

(3) One member appointed by the superintendent from his or her staff, who shall serve as chairperson of the visiting committee.

(4) Additional members may be appointed by the superintendent if the superintendent determines that their technical expertise is necessary to review the applicant institution. These members shall be nonvoting members.

(c) The visiting committee's responsibilities shall include all of the following:

(1) To verify the accuracy of the information submitted by the applicant institution.

(2) To determine whether the applicant institution complies with the standards required by statute and regulation.

(3) To provide the applicant institution with a preliminary report of its findings, including its recommendation regarding the grant of the requested authorization, no later than 30 days following completion of the onsite review. The applicant institution shall provide the visiting committee with any additional information the visiting committee may request within 30 days after receipt of the preliminary report.

(4) To review the applicant institution's response to the preliminary report, and no later than 90 days following receipt of the response, submit a final report to the superintendent. The final report shall include the visiting committee's recommendation for the grant of authorization or for the denial of that authorization.

(d) If the visiting committee's recommendation regarding authorization is not unanimous, the superintendent shall refer the final report to the council or to an appropriate appeals committee of the council for its advice pursuant to paragraph (8) of subdivision (f) of Section 94304.

(e) Within 90 days of the receipt of a unanimous visiting committee's report or the advice of the council, as appropriate, the superintendent shall take one of the following alternative actions:

(1) Grant the applicant institution full authorization for a period not to exceed five years. Authorization pursuant to this subparagraph shall continue to be valid upon payment of the annual renewal fee specified in Section 94331.

(2) Disapprove the application.

The superintendent shall advise the applicant institution of the specific reasons for action taken pursuant to subparagraph (2) of this subdivision and of the specific corrective measures needed to obtain authorization. If those corrective measures have been taken, authorization may then be granted for an initial period not to exceed one year, and for periods of five years upon each subsequent renewal, subject to the payment of the annual renewal fee specified in Section 94331.

(f) Not later than 90 days prior to the expiration of an authorization to operate, an institution shall file a completed application for reauthorization pursuant to this section with the superintendent The reauthorization process for all institutions shall include a full review by a visiting committee.

(g) All institutions operating pursuant to authorization received under this subdivision in effect on June 30, 1984, shall receive conditional authorization for a period not to exceed three years. On a specified date prior to June 30, 1987, determined by the superintendent, each institution granted conditional authorization pursuant to this paragraph shall file a completed application for reauthorization pursuant to this section.

(h) Authorization received pursuant to this subdivision shall not be interpreted to endorse, and it is unlawful for, any institution to represent by any means that the State of California, the Superintendent of Public Instruction, State Board of Education, or the State Department of Education has made any accreditation or endorsement of the course of study or degree.

(i) If at any time the superintendent determines that an authorized institution has significantly deviated from the standards for authorization, but not to an extent which would warrant the withdrawal of the institution's authorization, the superintendent may place the institution on probation for a specific period of time. During the period of probation, the institution shall be subject to special scrutiny by the superintendent. That scrutiny may include required submission of periodic reports, as prescribed by the superintendent, and special visits by authorized representatives of the superintendent. If at the end of the specified probation period, the institution has not taken steps to eliminate the cause for its probation which the superintendent finds satisfactory, the superintendent may withdraw the institution's authorization to award degrees. An institution placed on probation pursuant to this paragraph may appeal the superintendent's action to the council. The appeal shall be filed no later than 30 days following the superintendent's initial action pursuant to this paragraph.

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§ 94310.4 Theology and other areas of religious study; filing of affidavits; authorization to operate

The institution is structured by schools of theology, and awards degrees primarily in theology and other areas of religious study, and it has filed all of the following affidavits with the superintendent:

(a) An annual affidavit of "full disclosure" describing the institutional objectives and proposed methods of achieving them, the curriculum, instruction, faculty with qualifications, physical facilities, administrative personnel, educational recordkeeping procedures, tuition and fee schedule, tuition refund schedule, scholastic regulations, degrees to be conferred, graduation requirements, and financial stability as evidenced by a certified financial statement for the preceding year.

(b) An affidavit by the president or other head stating that the institution owns, and shall continue to own, net assets in the amount of fifty thousand dollars ($50,000) which is used solely for the purpose of education as stated in paragraph (1), located within this state, and stating that these assets provide sufficient resources to achieve the educational objectives of the institution. These assets shall include such real property as buildings and facilities, library materials, and instructional materials, but shall not include other personal property not used directly and exclusively by the institution for the purpose of education. The affidavit shall be accompanied by a statement from a public accountant showing the value of the interest of the institution therein to be at least fifty thousand dollars ($50,000) above the unpaid balance on any note secured by a mortgage, deed of trust, or the unpaid balance on a contract of sale.

(c) An annual affidavit by the president or other head setting forth, as a minimum, all of the following information:

(1) All names, whether real or fictitious, of the person, institution, firm, association, partnership, or corporation under which it has done or is doing business.

(2) The address, including city and street, of every place of doing business of the person, firm, association, partnership, or corporation, within this state.

(3) The address, including city and street, of the location of the records of the person, firm, association, partnership, or corporation, and the name and address, including city and street, of the custodian of those records.

(4) The names and addresses, including city and street, of the directors, if any, and principal officers of the person, firm, association, partnership, or corporation.

(5) That the records required by subdivision (k) of Section 94312 are maintained at the address stated, and are true and accurate.

Any change in the items of information required to be included in this affidavit shall be reported to the superintendent within 20 days of the change.

Within 90 days of the receipt of the affidavits described in paragraphs (a), (b), and (c), and prior to granting the initial authorization to operate, the superintendent shall verify the truthfulness and accuracy of the affidavits by impaneling a three-member team comprised of one representative which he or she shall select, one representative of the California Postsecondary Education Commission, and one representative selected by, but not affiliated with, the institution to be inspected. Within 30 days of the receipt of the report from the three-member team, the superintendent shall grant or deny authorization to operate. Authorization to operate may be denied only if the affidavits are inaccurate. Authorization to operate may be granted for one year initially and for periods of three years upon each subsequent renewal, subject to payment of an annual fee pursuant to Section 94331. For all affidavits beyond the initial application, the superintendent may take any steps necessary to verify the truthfulness and accuracy of the affidavits. Filing pursuant to this subdivision shall not be interpreted to mean, and it shall be unlawful for, any institution to expressly or impliedly represent by any means whatsoever, that the State of California, the Superintendent of Public Instruction, the State Board of Education, or the State Department of Education has made any evaluation, recognition, accreditation, approval or endorsement of the course of study or degree.

ARTICLE 2

REQUIREMENTS AND STANDARDS

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§ 94311 Approval or authorization of institution by superintendent

No postsecondary educational institution may offer courses of education leading to educational, professional, technological, or vocational objectives unless the institution has been approved or authorized by the superintendent as meeting at least one of the following requirements:

(a) A hospital licensed under the provisions of Article 1 (commencing with Section 1250) of Chapter 2 of Division 2 of the Health and Safety Code and issues diplomas only in connection with the operation of a hospital.

(b) An institution which is accredited, approved, or licensed by a state board or agency as a school, or any person or school certified for flight instruction by the Federal Aviation Administration, or its successor agency, and which issues or confers diplomas in the profession, vocation or occupation controlled by the board or agency accrediting, approving, or licensing it. However, this subdivision shall not be construed as authorizing the issuing of a diploma which is not customarily granted for the training given and which is limited to the profession, vocation or occupation controlled by the accrediting, approving, or licensing board or agency. Authorization to operate pursuant to this subdivision shall only be denied if the institution does not possess a valid accreditation, approval, or licensure by a California state agency, or if the person or school providing flight instruction does not possess a valid certification issued by the Federal Aviation Administration, or its successor agency. Institutions seeking approval or authorization pursuant to this subdivision shall be exempt from providing the application materials specified in subdivision (a) of Section 94330 and from the requirements of subdivision (e) of Section 94330. Institutions or persons approved by the Federal Aviation Administration, or its successor agency, which offer flight education and instruction shall file annually with the Superintendent of Public Instruction a copy of the individual's or institution's certificate as provided by the Federal Aviation Administration.

(c) An institution which at the time of the issuance of a diploma, has accreditation of the institution, program or specific course of study upon which the diploma is based by a national or applicable regional accrediting agency recognized by the United States Department of Education, and the administrative head of the institution has filed with the superintendent an annual affidavit verifying that the institution, program, or each course of study for which a diploma is issued is so accredited.

(d) An institution which has been approved by the superintendent as meeting the following minimum criteria:

(1) That the quality and content of each course or program of instruction, training, or study are such as may reasonably and adequately achieve the stated objective for which the course or program is offered.

(2) There is in the institution adequate space, equipment, instructional material, and instructor personnel to provide training of the quality needed to attain the object of that particular course.

(3) Every instructor and administrator holds an applicable and valid Certificate of Authorization for Service issued by the Superintendent in the specified competence area in which the individual will serve. Certificates may be issued to administrators upon the superintendent's determination that the applicant is of good moral character and to instructors upon the superintendent's determination that the applicant is of good moral character and possesses adequate academic, experiential, and professional qualifications.

(4) The institution maintains written records of the student's previous education and training with recognition where applicable.

(5) A copy of the course outline, schedule of tuition, fees and other charges, regulations pertaining to tardiness, absence, grading policy and rules of operation and conduct is given to students upon enrollment.

(6) The institution maintains adequate records to show attendance, progress, and grades.

(7) The institution complies with all local city, county, municipal, state, and federal regulations such as fire, building, and sanitation codes. The superintendent may require evidence of compliance.

(8) The institution does not exceed enrollment which the facilities and equipment of the institution can reasonably handle.

(9) The institution's administrator, director, owner, and instructors are of good reputation and character.

(10) Application for such approval shall be made in writing on proper application forms. Pending final approval, the superintendent may issue a provisional approval upon submission of the complete application.

Within 30 days following receipt of application, and prior to the issuance of either provisional or final approval, a representative of the superintendent shall personally inspect the school and verify the application. If the visitation does not occur within 30 days following receipt of the application, the institution shall automatically receive a provisional approval. Within 30 days following visitation, either final approval, provisional approval, or denial of approval shall be given to each application. If the superintendent does not act within 30 days following visitation, the application from the institution will automatically receive approval. If all information is in order, the superintendent may authorize provisional approval. A provisional approval shall not exceed a period of one year, subject to prior termination or conversion to annual approval. A provisional approval may not be extended.

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§ 94311.5 Truck driving schools

No person shall own or operate a school, or give instruction, for the driving of motortrucks of three or more axles which are more than 6,000 pounds unladen weight unless both of the following conditions are met:

(a) The school or instruction has been approved or authorized under either subdivision (c) or (d) of Section 94311.

(b) The department has certified, in addition, that the school, or instruction, meets all standards for truck driving schools and instruction established by the Department of Motor Vehicles as of January 1, 1988, including, but not limited to, vbehicle inspection, insurance requirements, and personnel background checks.

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§ 94312 Minimum standards

All institutions authorized, or approved, under this chapter shall be maintained and operated, or in the case of a new institution, shall demonstrate that it will be maintained and operated, in compliance with all of the following minimum standards:

(a) That the institution is financially capable of fulfilling its commitments to its students.

(b) That the institution and its agents do not utilize advertising of any type which is erroneous or misleading, either by actual statement, omission, or intimation.

(c) That the institution designates an agent for service of process within this state.

(d) That the institution has and maintains a fair and equitable policy in reference to refund of the unused portion of tuition fees and other charges in the event the student fails to enter the course, or withdraws therefrom at any time prior to completion of the course. The policy shall be in compliance with the minimum standard of refunds as adopted by the superintendent. The superintendent shall take into consideration the length and character of the educational program in determining standards for refunds.

(e) That any written contract or agreement signed by a prospective student away from the institution premises shall not become operative until the student makes an initial visit to the institution. The provision applies only in those situations when the student begins payment on tuition charges (beyond the registration fee) prior to arriving at the campus. The student is obligated to visit the campus at least six days prior to the start of classes. The school officials are obligated to provide the student with a thorough tour of the campus facilities and to place a written statement, signed by the student, in the student's file to verify that the visitation and campus tour were provided. Following the visitation to the campus, the student shall have a three-day "cooling off" period to void the contract with no money to be retained by the school as provided in subdivision (d). If the student does not visit the campus after signing the contract, the "cooling off" period shall automatically begin six days prior to the start of classes. The student may waive the right to visit the campus at any time after signing the contract. This provision does not apply to correspondence schools or other mail study institutions. The superintendent shall take into consideration the character of the educational program in determining if other types of institutions should also be excluded from this provision.

(f) That any written contract or agreement for a course of study with an institution shall include on the first page of the agreement or contract, in 12-point boldface print or larger, the following statement:

"Any questions or problems concerning this institution which have not been satisfactorily answered or resolved by the institution should be directed to the Superintendent of Public Instruction, State Department of Education, Sacramento, California 95814."

In addition, the written contracts or agreements shall specify, in underlined capital letters on the same page of the contract or agreement in which the student's signature is required, the total financial obligation that the student will incur upon enrollment in the institution, in numbers or letters.

(g) That neither the institution nor its agents engage in sales, collection, credit, or other practices of any type which are false, deceptive, misleading, or unfair.

(h) That the institution makes available to students and other interested persons a catalog or brochure containing information describing the courses offered, program objectives, length of program, faculty and their qualifications, schedule of tuition, fees, and all other charges and expenses necessary for completion of the course of study, cancellation and refund policies, the total cost of tuition over the entire period, and (for vocational training programs for which specific placement claims are made) placement data, as well a such other material facts concerning the institution and the program or course of instruction, as are reasonably likely to affect the decision of the student to enroll therein, as specified by the superintendent and defined in the rules and regulations; and that such information is made available to prospective students prior to enrollment.

(i) That upon satisfactory completion of training, the student is given an appropriate degree or diploma by the institution, indicating that the course or courses of instruction or study have been satisfactorily completed by the student.

(j) That adequate and accurate records are maintained by the institution, in accordance with regulations adopted by the superintendent, and that satisfactory standards are enforced relating to attendance, progress, and performance.

(k) That the institution maintains current records for a period of not less than five years at its principal place of business within the State of California, immediately available during normal business hours, for inspection by the superintendent or the Attorney General of California showing all of the following:

(1) The names and addresses, both local and home, including city and street, of each of its students.

(2) The courses of study offered by the institution.

(3) The names and addresses, including city and street, of its faculty, together with a record of the educational qualifications of each.

(4) The degrees or diplomas and honorary degrees and diplomas granted, the date of granting, together with the curricula upon which the diplomas and degrees were based.

(*l*) Accreditation by a national or applicable regional accrediting agency recognized by the United States Department of Education shall be accepted by the superintendent as evidence of compliance with the minimum standards established by the accrediting or licensing agency, and therefore as evidence of compliance with the minimum standards specified in the provisions of this section. If there is substantial evidence of violation by a college or university accredited by a national accrediting agency of the standard established by the responsible agency, the superintendent shall require further evidence and make further investigation. Following the superintendent's investigation, the appropriate national accrediting agency shall be notified by the superintendent of his or her findings. If, after four months, the superintendent determines that the national accrediting agency has not taken appropriate action and substantial evidence remains that the institution is not meeting minimum standards, the superintendent may take further action, as may be necessary, including revoking the institution's license to offer education and to award degrees and diplomas.

(m) That the institution provides instruction as part of its educational program. Instruction shall include any specific, formal arrangement by an institution for its enrollees to participate in learning experiences wherein the institution's faculty or contracted instructors present a planned curriculum appropriate to the enrollee's educational program.

(n) Institutions licensed solely under subdivision (b) of Section 94311, with the exception of those offering flight instruction, shall comply with subdivision (b), (e), (g), (h), (i), and (j). The responsibility for monitoring and enforcing institutional compliance with these minimum standards shall be with the state board or agency responsible for licensing the school.

(o) Institutions certified to offer flight instruction by the Federal Aviation Administration, or its successor agency, shall comply with all of the requirements of this section, but shall not be required to file any materials with the Superintendent of Public Instruction which are not required by the Federal Aviation Administration, or its successor agency, except those minimally necessary to administer the Student Tuition Recovery Fund, pursuant to Section 94342, as determined by the Superintendent of Public Instruction. The responsibility for monitoring and enforcing institutional compliance for these institutions shall be with the Superintendent of Public Instruction.

Individual flight instructors not requiring any advance payments, who do not negotiate a formal contract of indebtedness, and who do not have an established place of business other than their residences shall be exempt from the requirements of this section.

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§ 94313. Compliance investigation

(a) Within 30 days of receiving the noticer described in Section 69509.5 from the commission, the Private Postsecondry Education Division of the

State Department of Education shall commence an investigation of the institution named in the notice.* The purpose of the investigation shall be to determine whether the educational institution is complying the applicable provisions of the chapter, the rules and regulations promulgated pursuant to this chapter, and the standards established by the accrediting board or agency. The receive of the notice described in Section 69509.5 shall be deemed to be substantial evidence of violation of the standards established by the responsibler agency for the purposes of subdivision (*l*) of Section 94312.

(b) Within 60 days of the commencement of the investigation required in subdivision (a), the Private Postsecondary Education Division of the State Department of Education shall conclude its investigation and take action against the institution involved, as appropriate.

§ 94315. Institution for development or improvement of occupational skill, knowledge or ability; affidavit of ownership; filing; exemption from provisions of chapter; inapplicability

No institution may offer education which develops or improves an occupational skill, knowledge, or ability unless the ownership for its statewide operations has filed with the superintendent an annual affidavit for public disclosure setting forth the following information: the ownership's legal name, headquarters address, and name of an agent for the service of process within California; all names, whether real or fictitious, under which the ownership is doing and will do business; and, the names and addresses of the principal officers of the ownership. Accompanying such annual affidavit shall be representative copies of any existing media advertising or promotional material. Institutions filing pursuant to this section shall be exempt from all the provisions of this chapter except those in subdivision (d) of Section 94310, Section 94321, and Section 94336. Filing pursuant to this section shall not be interpreted to mean, and it shall be unlawful for, any institution to expressedly or impliedly represent by any means whatsoever, that the State of California, Superintendent of Public Instruction, the State Board of Education, or the Department of Education has made any evaluation, recognition, accreditation, approval, or endorsement of the institution or the education offered.

This provision does not apply to education with an educational, professional, technological, or vocational objective which is subject to approval or authorization pursuant to Section 94311. Institutions accredited by a national or applicable regional accrediting agency recognized by the United States Department of Education, or accredited, approved, or licensed by a California state agency for such education, are exempted from the provisions of this section. Also exempted from this section are remedial and tutorial education, as determined by the superintendent, any education which is offered free of charge, and any education offered by nonprofit entities, including national or statewide professional and occupational organizations and public benefit corporations.

ARTICLE 3

PROHIBITED ACTIVITIES

§ 94320. Prohibited activities

No institution, or representative of such institution, shall:

(a) Operate in this state a postsecondary educational institution not exempt from the provisions of this chapter, unless said institution has a currently valid authorization or approval to operate issued pursuant to the provisions of this chapter.

(b) Offer, as or through an agent, enrollment or instruction in, or the granting of educational credentials from, an institution not exempted from the provisions of this chapter, whether such institution is within or outside this state, unless such agent is a natural person and has a currently valid agent's permit issued pursuant to the provisions of this chapter, nor accept contracts or enrollment applications from an agent who does not have a current permit as required by this chapter; provided, however, that the superintendent may promulgate rules and regulations to permit the rendering of legitimate public information services without such permit.

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* This notice from the California Student Aid Commission involves "the commencement of any cause of action" against a private postsecondary educational institution in connection with the California Guaranteed Student Loan Program or the California Loans to Assist Student Program. The Student Aid Commission is to notify the Private Postsecondary Education Division in writing within five days of commencing such an action.

(c) Instruct or educate, or offer to instruct or educate, including soliciting for such purposes, enroll or offer to enroll, contract or offer to contract with any person for such purpose, or award any educational credential, or contract with any institution or party to perform any such act, in this state, whether such person, agent, group, or entity is located within or without this state, unless such person, agent, group, or entity observes and is in compliance with the minimum standards set forth in Section 94312, the criteria established by the superintendent and reviewed by the council pursuant to paragraph (4) of subdivision (f) of Section 94304, and the rules and regulations adopted by the superintendent pursuant to subdivision (b) of Section 94305.

(d) Use, or allow the use of, any reproduction or facsimile of the Great Seal of the State of California on any diploma.

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§ 94321 Prohibited activities

No institution, or representative of such institution, shall:

(a) Make, or cause to be made, any statement, or representation, oral, written, or visual, in connection with the offering or publicizing of a course, if such person, firm, association, partnership, or corporation knows, or reasonably should have known, the statement or representation to be false, deceptive, inaccurate, or misleading.

(c) Advertise concerning job availability, degree of skill and length of time required to learn a trade or skill unless the information is accurate and in no way misleading.

(d) Advertise, or indicate in any promotional material, that correspondence instruction, or correspondence courses of study are offered without including in all advertising or promotional material the fact that the instruction or courses of study are offered by correspondence or home study.

(e) Advertise, or indicate in any promotional material, that resident instruction, or courses of study are offered without including in all advertising or promotional material the location where the training is given or the location of the resident instruction.

(f) Solicit students for enrollment by causing any advertisement to be published in "help wanted" columns in any magazine, newspaper, or publication or use "blind" advertising which fails to identify the school or institution.

Nothing contained in this section shall prohibit a private school and a bona fide employer from jointly advertising in "help wanted" columns of a magazine, newspaper, or other publication if they meet all of the conditions established by the superintendent for such advertising.

Any institution willfully violating any provisions of this section shall be unable to enforce any contract or agreement arising from the transaction in which the violation occurred, and it may be one of the grounds for losing the approval or authorization to operate in this state. In addition, in the event of such violations, the institution shall refund to the student any tuition or fees that have been collected from the student. The student shall be awarded, in addition to the foregoing, any damages sustained, and may be awarded treble damages, in the discretion of the court.

The judgment rendered in any action maintained for the recovery of fees or damages sustained in accordance with the terms of this section or the judgment rendered in any action defended by a student, shall, if the student is the prevailing party, include court costs, including a reasonable attorney's fee fixed by the court.

The provisions of this section shall supplement and not displace the authority granted the Division of Labor Law Enforcement under Section 1700.4 of the Labor Code to the extent that placement activities of trade schools are subject to regulations by the division under the Labor Code.

ARTICLE 4

APPLICATIONS, AUTHORIZATIONS, FEES, AND PROTECTIONS

§ 94330 Application for authorization to operate

(a) Each institution desiring to operate in this state shall make application to the superintendent, upon forms to be provided by the superintendent. The application shall include, as a minimum, at least the following:

(1) A catalog published or proposed to be published by the institution containing the information specified in the criteria promulgated by the superintendent. The catalog shall include specific dates as to when the catalog applies.

(2) A description of the institution's placement assistance, if any.

(3) Copies of media advertising and promotional literature.

(4) Copies of all student enrollment aoreement or contract forms and instruments evidencing indebtedness.

(5) The name and California address of a designated agent upon whom any process, notice or demand may be served.

(b) Each application shall be signed and certified to under oath by the principal owners of the school (those who own at least 10 percent of the stock).

(c) Following review of such application and any other further information submitted by the applicant, or required in conformity with Sections 94310 and 94311, and such investigation of the applicant as the superintendent may deem necessary or appropriate, the superintendent shall either grant or deny authorization to operate to the applicant.

The provision of Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code shall be applicable to any determination of the superintendent made pursuant to this section.

(d) The term for which authorization is given shall not extend for more than three years, and may be issued for a lesser period of time.

(e) The authorization to operate shall be issued to the owner, or governing body, of the applicant institution, an shall be nontransferable. In the event of a contemplated shift in control, or a change in ownership of the institution, a new owner, or governing body, must at least 20 days prior to the shift in control or change in ownership, apply for a new authorization to operate, and in the event of failure to do so, the institution's authorization to operate shall terminate. Application for a new authorization to operate by reason of a shift in control or a change in ownership of the institution shall be deemed an application for renewal of the institution's authorization to operate. The shift in control, or change in ownership of the institution may not be made until the application is approved. "Ownership," for purposes of this section, shall be deemed to mean ownership of a controlling interest in the institution, or in the event the institution is owned or controlled by a corporation or other legal entity other than a natural person or persons, ownership of a controlling interest in the legal entity owning or controlling such institution.

(f) At least 60 days prior to the expiration of an authorization to operate, the institution shall complete and file with the superintendent an application form for renewal of its authorization to operate. Said renewal application shall be reviewed and acted upon as provided herein above.

(g) Institutions accredited by an agency recognized by the United States Department of Education are not required to file the information described in parts (3) and (4) of subdivision (a) of this section.

(h) Catalogs submitted by accredited institutions shall be deemed to meet the requirements of paragraph (1) of subdivision (a) of this section, unless the superintendent finds that the catalog does not meet the standards any criteria of the institution's accrediting agency. In such case, the superintendent may require modification of the catalog to bring it into compliance with the standards and criteria of the institution's accrediting agency.

§ 94331 Private postsecondary education administration fund; credits, appropriaton, fees

The superintendent shall establish and maintain a Private Postsecondary Education Administration Fund. All fees collected pursuant to this section shall be credited to this fund, along with any interest on the money, for administration of the provisions of this chapter. The money in the fund is continuously appropriated to the State Department of Education without regard to fiscal years. However, if the Legislature makes an appropriation for the support of the Office of Private Postsecondary Education in the Budget Act of any fiscal year, the amount for support of the Office of Private Postsecondary Education expended from the Private Postsecondary Education Administration Fund during that fiscal year shall not exceed the amount appropriated by the Budget Act.

For the approval or authorization of private institutions operating under this chapter, the superintendent shall charge an amount not exceeding the actual costs of approving or authorizing the private institutions. However, in no case shall these fees exceed the fee schedule in this section, except that such maximum amounts may be increased by a percentage which reflects an increase in the Consumer Price Index, all items of the Bureau of Labor Statistics of the United States Department of Labor, measured for the calendar year preceding the fiscal year to which it applies. If the actual costs incurred exceed the proceeds of the maximum amount so computed, the superintendent may further increase the maximum fee up to the amount of the actual costs incurred, with the approval of the council. The superintendent shall annually publish a schedule of the current fees to be charged pursuant to this section and shall make such schedule generally available to the public.

The following fee schedule shall govern the fees to be paid by private institutions operating under this chapter:

(a) For approval to issue specified degrees pursuant to subdivision (b) of Section 94310:

(1) Fifteen hundred dollar ($1,500) for an institution's original application.

(2) Five hundred dollars ($500) for an institution's annual renewal.

(3) Two hundred dollars ($200) for an institution's change of ownership.

(4) One hundred fifty dollars ($150) for an institution's change of location.

(5) Five hundred dollars ($500) for an institution's additional degree title.

(b) For authorization to issue degrees pursuant to subdivision (c) or (d) of Section 94310:

(1) One thousand five hundred dollars ($1,500) for an institution's original application.

(2) Five hundred dollars ($500) for an institution's annual renewal.

(3) Two hundred dollars ($200) for an institution's change of ownership.

(c) For authorization to issue diplomas or offer courses pursuant to subdivision (c) of Section 94311:

(1) (A) Four hundred dollars ($400) for a new institution.

(B) Two hundred fifty dollars ($250) for an institution converting from approval pursuant to subdivision (d) of Section 94311.

(C) Two hundred dollars ($200) for a new or converted institution of an administrative family.

(2) (A) Two hundred dollars ($200) for an annual renewal of a new or converted institution.

(B) One hundred dollars ($100) for an annual renewal of an administrative family institution.

(d) For approval to issue diplomas or offer courses pursuant to subdivision (d) of Section 94311:

(1) (A) Five hundred dollars ($500) for a new institution.

(B) Two hundred fifty dollars ($250) for a new institution of an administrative family.

(C) Two hundred dollars ($200) for a new institution of a nonprofit public benefit corporation, organized pursuant to Part 2 (commencing with Section 51100) of Division 2 of Title 1 of the Corporations Code, if such education is limited to instruction in employment and skill training and if it is offered at no charge to those persons receiving such education.

(2) (A) Two hundred twenty-five dollars ($225) for an institution's annual renewal.

(B) One hundred dollars ($100) for an annual renewal of an institution of an administrative family and for an annual renewal of an institution described in subparagraph (C) of paragraph (1) of subdivision (d).

(3) Two hundred dollars ($200) for an institution's change of ownership.

(4) One hundred fifty dollars ($150) for an institution's change of location.

(5) One hundred dollars ($100) for an institution's additional course.

(e) For an annual filing by an ownership to offer career-related education pursuant to Section 94315: Two hundred dollars ($200).

(f) For purposes of this section, "administrative family" refers to two or more institutions under common ownership, and the ownership maintains centralized administration, records, and reporting at one California location, and has at least a five-year history of private postsecondary education operations in California.

(g) For evaluation of an applicant for a certificate of authorization for service, issued pursuant to paragraph (3) of subdivision (d) of Section 94311, the original and renewal applications for a three-year authorization shall be accompanied by a twenty-five dollar ($25) fee.

(h) For a private school agent's permit pursuant to Section 94333: Twenty-five dollars ($25) annually per applicant.

(i) For agencies with three or fewer employees:

(1) Seven hundred fifty dollars ($750) for an original application.

(2) Five hundred dollars ($500) for the agency's annual renewal

(3) Five hundred dollars ($500) for the agency's change of ownership.

(j) For agencies with four or more employees:

(1) One thousand five hundred dollars ($1,500) for an original application.

(2) One thousand dollars ($1,000) for the agency's annual renewal.

(3) One thousand dollars ($1,000) for the agency's change of ownership.

(k) This section shall not apply to any agency recruiting solely for institutions described in Section 94310.1.

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§ 94332. Complaint alleging violation of chapter

(1) Any person claiming damage or loss as a result of any act or practice by a postsecondary educational institution or its agent, or both, which is a violation of this chapter or of the rules and regulations promulgated hereunder, may file with the superintendent a verified complaint against such institution or against its agent, or both. The complaint shall set forth the alleged violation and shall contain such other information as may be required by the superintendent.

(2) The superintendent shall investigate any such complaint and may, at his or her discretion, attempt to effectuate a settlement by persuasion and conciliation. The superintendent may consider a complaint after 10 days' written notice by registered mail, return receipt requested, to such institution or to such agent, or both, as appropriate.

(3) If, upon all the evidence at a hearing, the superintendent shall find that an institution or its agent, or both, has engaged in or is engaging in, any act or practice which violates the provisions of this chapter or the rules and regulations promulgated hereunder, the superintendent shall report such evidence to the Attorney General. The superintendent may also, as appropriate, based on his or her own investigation or the evidence adduced at such hearing, or both, commence an action to revoke an institution's approval or authorization to operate or an agent's permit.

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§ 94333. Agent's permit

(a) Notwithstanding any other provision of this chapter concerning agents, the owner of at least 51 percent of the equitable interest in an institution shall be exempt from this section by virtue of having filed for a permit to operate under Section 94310 and 94311.

Any agent, as defined by subdivision (a) of Section 94302, must hold a valid permit issued by the superintendent. Administrators or faculty, or both, who make informational public appearance, but whose primary task is not to serve as a paid recruiter, are exempted from this section.

The application for such a permit shall be furnished by the superintendent and shall include the following:

(1) A statement signed by the applicant that he or she has read the provisions of this chapter and the rules and regulations promulgated pursuant thereto.

(2) A surety bond making provision for indemnification of any person for any material loss suffered as a result of any fraud or misrepresentation used in connection with the solicitation for the sale or the sale of any course of study. The term of the bond shall extend over the period of the permit. The bond may be supplied by the institution or by the person for whom the issuance of the permit is sought and may extend to cover individuals separately or to provide blanket coverage for all persons to be engaged as representatives of the institution. Such bond shall provide for liability in the penal sum of one thousand dollars ($1,000) for each agent to whom coverage is extended by its terms.

Neither the principal nor surety on a bond may terminate the coverage of the bond except upon giving 30 days' prior written notice to the superintendent.

(3) A fee as required by Section 94331.

(b) An agent representing more than one institution must obtain a separate agent's permit for each institution represented; provided, that when an agent represents institutions having a common ownership, only one agent's permit shall be required with respect to said institutions. In the event any institution which the applicant intends to represent does not have authorization to operate in this state, said application shall be accompanied by the information required of institutions making application for such authorization.

(c) No person shall be issued a permit except upon the submission of satisfactory evidence of good moral character.

(d) A permit shall be valid for the calendar year in which it is issued, unless sooner revoked or suspended by the superintendent for fraud or misrepresentation in connection with the solicitation for the sale of any course of study, or for the existence of any condition in respect to the permittee or the school he or she represents which, if in existence at the time the permit was issued, would have been grounds for denial of the permit.

(e) The permittee shall carry the permit with him or her for identification purposes when engaged in the solicitation of sales and the selling of courses of study away from the premises of the school.

(f) A temporary permit shall be issued when a complete application is filed. The temporary permit will automatically expire when the applicant is notified of the superintendent's decision to issue or deny a regular permit. Notification is complete when the applicant learns of the decision or three days after notice of the decision is mailed to the applicant's address stated in the application, whichever occurs first. The superintendent may deny or terminate any temporary permit at any time upon receipt of any information for which a regular permit might be denied. Such termination is effective when the applicant is notified as stated above.

The judgment rendered is any action maintained for any material loss suffered as a result of any fraud or misrepresentation used in connection with the solicitation for the sale or the sale of any course of study away from the premises of the school shall, if the plaintiff is the prevailing party, include court costs including a reasonable attorney's fee fixed by the court.

The provisions of Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code shall be applicable to any determination of the superintendent made pursuant to this section.

The issuance of a permit pursuant to this section shall not be interpreted as, and it shall be unlawful for any individual holding any such permit to expressly or impliedly represent by any means whatever, that the superintendent has made any evaluation, recognition, accreditation, or endorsement of any course of study being offered for sale by the individual.

It shall be unlawful for any individual holding a permit under this section to expressly or impliedly represent, by any means whatever, that the issuance of the permit constitutes an assurance by the superintendent that any correspondence course of study being offered for sale by the individual will provide and require of the student a course of education or training necessary to reach a professional, educational, or vocational objective, or will result in employment or personal earnings for the student.

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§ 94334. Agency authorization; application; inspection; agent permit exemption; deceptive practices; institution involvement with unauthorized agency; exemption

(a) Except as otherwise specified in subdivision (g), any agency, as defined by subdivision (a) of Section 94302, shall be required to hold a valid authorization issued by the superintendent. The application for an authorization shall include all of the following:

(1) A current financial statement prepared by a certified public accountant.

(2) Evidence of a surety bond making provision for indemnification of any person for any material loss suffered as a result of any fraud or misrepresentation used in the connection with the solicitation for the sale or the sale of any course of study. The term of the bond shall extend over the period of the authorization., The bond shall provide for liability in the penal sum of one hundred thousand dollars ($100,000) for each agency to which coverage is tended by its terms. Neither the principal nor surety on a bond may terminate the coverage of the bond except upon giving 30 days' prior written notice to the superintendent.

(3) A copy of the student disclosure statement to be read and signed by all prospective students referred to institutions by an agency. The student disclosure statement shall include, but not be limited to, all of the following:

(A) A statement to the effect that no promise of employment has been made by the agency.

(B) A statement to the effect that the repayment of any debt incurred by a student in connection with his or her education will be the sole responsibility of the student.

(C) The amount and terms of any fee to be paid by the student to the agency.

(D) A verbatim statement, as follows:

"Any questions or problems concerning this agency should be directed to the Superintendent of Public Instruction, State Department of Education, Sacramento, California 94244-2720."

(E) A statement to the effect that the institution or institutions to which the prospective student is referred by the agency has the obligation to make available to the student a catalog or brochure containing information describing all of the following:

(i) The courses offered.

(ii) Program objectives.

(iii) Length of program.

(iv) The faculty and their qualifications.

(v) Schedule of tuition, fees, and all other charges and expenses necessary for the completion of the course of study.

(vi) Cancellation and refund policies.

(vii) Total cost of tuition over the period needed to complete the student's education.

(viii) For vocational training programs for which specific placement claims are made, placement data, including program completion rates, placement rates, and starting salaries.

(ix) Other material facts concerning the institution and the program or course of instruction that are reasonably likely to affect the decision of the student to enroll in the institution.

(4) Identification of all employees of the agency and their titles.

(5) Identification of all owners and if the entity is a corporation the identification of all persons possessing an interest equal to, or in excess of, 10 percent.

(6) Identification of all vendors of educational services for which the agency provides recruitment services.

(7) A signed statement by the applicant that all employees engaged in recruitment activities will be required to read Section 94320.

(b) Within 15 days of receipt of a completed application and prior to issuance of an authorization a representative of the superintendent shall inspect the applicant agency and verify the application. Within 30 days of the inspection the superintendent shall issue the authorization for a one-year period, subject to annual renewal at the end of that period, or deny the application.

(c) Any employee of an authorized agency engaged in student recruitment activities of an authorized agency is exempt from the permit requirements of Section 94333.

(d) Neither the agency nor any of its employees shall engage in the sales, collection, credit, or other practices of any type that are false, deceptive, misleading, or unfair.

(e) Any institution authorized or approved under this chapter shall cease any and all recruitment activities involving the agency upon action by the superintendent to revoke or deny an agency authorization. Failure of the institution to do so upon presentation of notice of the superintendent's action shall be cause to deny or revoke any authorization or approval held by that institution.

(f) Any agency engaged in recruiting activities on January 1, 1989, may continue its recruiting activities but shall make an application to the superintendent as required by this section within 30 days of the application becoming available and the superintendent, within 30 days of the receipt of the application, shall issue the authorization for a one-year period or deny authorization. Thereafter, the agency shall possess a current authorization in order to continue to operate.

(g) This section shall not apply to any agency recruiting solely for institutions described in Section 94310.1.

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§ 94335. Notes, other instruments of indebtedness, or contracts relating to payment for educational services

(a) No note, other instrument of indebtedness, or contract relating to payment for educational services shall be enforceable in the courts of this state by any institution within or outside this state governed by the provisions of this chapter unless at the time of execution of such note, other instrument of indebtedness, or contract, said institution has a valid approval or authorization pursuant to the provisions of this chapter.

(b) No note, other instrument of indebtedness, or contract relating to payment for educational services shall be enforceable in the courts of this state by any institution within or outside this state governed by the provisions of this chapter unless such agent, who enrolled persons to whom educational services were to be rendered or to whom degrees or diplomas were to be granted pursuant to the provisions of this chapter, held a valid agent's permit at the time of execution of the note, other instrument of indebtedness, or contract.

(c) Any school or institution governed by the provisions of this chapter extending credit or lending money to any person for tuition, fees, or any charges whatever for educational services to be rendered or furnished shall cause any note, instrument, or other evidence of indebtedness taken in connection with such loan or extension of such credit to be conspicuously marked on the face thereof with the following notice:

NOTICE

ANY HOLDER OF THIS CONSUMER CREDIT CONTRACT IS SUBJECT TO ALL CLAIMS AND DEFENSES WHICH THE DEBTOR COULD ASSERT AGAINST THE SELLER OF GOODS OR SERVICES OBTAINED PURSUANT HERETO OR WITH THE PROCEEDS HEREOF. RECOVERY HEREUNDER BY THE DEBTOR SHALL NOT EXCEED AMOUNTS PAID BY THE DEBTOR HEREUNDER.

In the event such school or institution fails to do so, it shall be liable for any damage or loss suffered or incurred by any subsequent assignee, transferee, or holder of such evidence of indebtedness on account of the absence of such notification.

(d) Notwithstanding the presence or absence of such notification and not wishstanding any agreement wherein the student waives the right to assert any claim or defense, the school or institution making such loan or extending such credit and the transferee, assignee, or holder of such evidence of indebtedness, shall be subject to all defenses and claims which could be asserted against the school or institution which was to render or furnish such educational services by any party to such evidence of indebtedness or by the person to whom such educational services were to be rendered or furnished up to the amount remaining to be paid thereon.

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§ 94336 Violation of provisions

Any person, firm, association, partnership, or corporation willfully violating subdivision (d) of Section 94320 is guilty of a felony and is punishable by imprisonment in the state prison, or by a fine of not less than one thousand dollars ($1,000), or by both such fine and imprisonment.

Any person, firm, association, partnership, or corporation which willfully violates any other provision of this chapter, is punishable, for a first offense, by imprisonment in the county jail for not exceeding one year, or by a fine not exceeding one thousand dollars ($1,000), or both: and any second or subsequent offense shall be a felony punishable by imprisonment in the state prison, or by a fine of not less than one thousand dollars ($1,000), or by both such fine and imprisonment.

§ 94337 Institution with prior approval or authorization to operate

Any institution approved or authorized to operate prior to the effective date of the act that added this chapter shall retain such authorization until January 1, 1979, without authorization or approval of the superintendent unless:

(a) Such authorization or approval is revoked by the superintendent or suspended by operation of law pursuant to the provisions of this section.

(b) Such authorization or approval expires and is subject to renewal.

(c) The institution ceases to exist or provide instruction.

After January 1, 1982, all institutions must either be authorized or approved by the superintendent in conformity with this chapter.

§ 94338 Contract with district, superintendent or other agency

Any institution approved or authorized by the superintendent pursuant to the provisions of this chapter may contract with any school district, county superintendent, community college district, or the governing body of an agency maintaining a regional occupational center or program, subject to Section 8092.

§ 94339 Duties of attorney general

(a) The Attorney General:

(1) May make such investigations as may be necessary to carry out the provisions of this chapter, including, but not limited to, investigations of complaints which are under review by the council pursuant to paragraph (6) of subdivision (f) of Section 94304;

(2) And the superintendent may, jointly, bring such actions as may be necessary to enforce the provisions of this chapter, including, but not limited to, civil actions for injunctive relief. In actions brought pursuant to this paragraph, the superintendent shall be represented by the Attorney General.

(b) The Attorney General shall represent the superintendent in any administrative proceedings arising under this chapter.

(c) Nothing in this section or this chapter shall be deemed to preclude the Attorney General from:

(1) Bringing any actions on behalf of the people as he is empowered by law to bring, including, but not limited to, actions based upon alleged violations of Section 17500 of the Business and Professions Code or Section 3369 of the Civil Code;

(2) Conducting such investigations as may be necessary to determine whether there have been violations of the provisions of law specified in paragraph (1) of this subdivision;

(3) Conducting any such investigations as he is authorized by law to conduct including, but not limited to, investigations authorized pursuant to Section 11180 of the Government Code.

§ 94341 Severability clause

If any section, subdivision, paragraph, subsection, sentence, clause, or phrase of this chapter is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this chapter. The Legislature hereby declares that it would have passed this chapter, and each section, subdivision, paragraph, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more of the sections, subdivisions, paragraphs, subsections, sentences, clauses, or phrases are declared to be unconstitutional.

§ 94342 Student tuition recovery fund; payment; regulations and conditions

The superintendent shall establish and maintain a Student Tuition Recovery Fund for the purpose of relieving or mitigating pecuniary losses suffered by any California resident who is a student of an approved or authorized postsecondary educational institution which charges prepaid tuition, as a result of such institution ceasing its operation for any reason. The Council for Private Postsecondary Educational Institutions acting in its established capacity and relationship may offer advice with regard to the administration of this section.

Payments from the fund to any student shall be at the discretion of the superintendent and shall be subject to such regulations and conditions as the superintendent shall prescribe. The provisions of Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code shall be applicable to any determination of the superintendent made pursuant to this section.

§ 94343 Annual assessments; amount; payment; disposition; exemptions, collection

The superintendent shall assess each institution which collects any moneys in advance of rendering services an amount equal to one-tenth of 1 percent of the total course cost for each student newly enrolled. The assessment per student shall be not less than one dollar ($1), and not more than four dollars ($4). In addition, for each student who prepays an institution an amount in excess of four thousand dollar ($4,000), the superintendent shall assess the institution one-half of 1 percent of the prepaid amount which exceeds four thousand dollars ($4,000). The assessments shall be paid into the State Treasury and credited to the Student Tuition Recovery Fund, and the deposits shall be allocated, except as otherwise provided for in this chapter, solely for the payment of valid claims to students. In no event shall assessments be levied if, on June 30 of any year, the balance in the fund exceeds seven hundred fifty thousand dollars ($750,000). However, regardless of the balance in the fund, assessments shall be made on any newly approved or authorized institution. Notwithstanding Section 13340 of the Government Code, the moneys so deposited in the Student Tuition Recovery Fund are continuously appropriated to the State Department of Education for the purpose of paying claims to students pursuant to Section 94342. Not more than fifty thousand dollars ($50,000) per fiscal year shall be used for the administration of the tuition recovery program authorized by Section 94342 and this section. The interest earned on money in the fund shall be credited to the fund. Institutions which are accredited by a regional accrediting association recognized by the United States Department of Education, or which meet the student tuition indemnification requirements of a California state agency, or which demonstrate to the superintendent that an acceptable alternative method of protecting their students against loss of prepaid tuition has been established, shall be exempted from the provisions of this section.

In the event of a closure by any institution authorized, or approved under this chapter, any assessments which have been made against such institution, but have not been paid into the State Treasury, shall be recovered, or any payments from the Student Tuition Recovery Fund to students on behalf of any such institution may be recovered, by appropriate action taken by the Superintendent of Public Instruction. The moneys so deposited in the Student Tuition Recovery Fund shall be exempt from execution and shall not be the subject of litigation or liability on the part of creditors of such institutions or students.

§ 94343.2 Violation of § 94343; consequences

(a) Any institution which willfully violates the provisions of Section 94343 shall be subject to all of the following:

(1) The institution shall lose all rights to enforce the terms of any contract or agreement arising from

the transaction in which the violation occurred.

(2) The institution shall refund to the aggrieved student any fees which it has collected from that student.

(b) An institution's willful violation of the provisions of Section 94343 may be grounds for the revocation of that institution's approval or authorization to operate in this state.

§ 94343.5 Disclosure of guaranteed or insured loans

Students enrolling in institutions which come under provisions of Sections 94342 and 94343, shall disclose in writing, if applicable, the source of any and all guaranteed or insured loans granted for the purposes of paying tuition to such institution. In the event of a closure of any such institution, the Superintendent of Public Instruction shall provide any lending institution which is the source of any guaranteed or insured student loan with the name of students maintaining loans with any such lending institution.

§ 94343.6 Student loans; withholding services for persons in default; "default"; regulations; notice to institutions of individual in default; duties of guarantors

(a) The governing board or other governing authority of any California postsecondary educational institution as defined in subdivision (l) of Section 94302 shall adopt regulations providing for the withholding of institutional services from students or former students who have been notified in writing at the student's or former student's last known address that he or she is in default on a loan or loans under either of the following loan programs:

(1) Guaranteed Student Loan program.

(2) Supplemental Loan for Students program.

"Default," for purposes of this section, means the failure of a borrower to make an installment payment when due, or to meet other terms of the promissory note under circumstances where the guarantee agency finds it reasonable to conclude that the borrower no longer intends to honor the obligation to repay, provided that this failure persists for 180 days for a loan repayable in monthly installments, or 240 days for a loan repayable in less frequent installments.

(b) The regulations adopted pursuant to subdivision (a) shall provide that the services withheld may be provided during a period when the facts are in dispute and when the student or former student demonstrates to either the governing board or other appropriate governing authority of the California postsecondary educational institution as defined in subdivision (l) of Section 94302, or the Student Aid Commission, or both the Student Aid Commission and the appropriate entity or its designee, that reasonable progress has been made to repay the loan or that there exists a reasonable justification for the delay as determined by the institution. The regulations shall specify the services to be withheld from the student and may include, but are not limited to, the following:

(1) The provision of grades.

(2) The provision of transcripts.

(3) The provision of diplomas.

The adopted regulations shall not include the withholding of registration privileges.

(c) When it has been determined that an individual is in default on a loan or loans under either of the loan programs specified in subdivision (a), the Student Aid Commission shall give notice of the default to all institutions through which that individual acquired the loan or loans.

(d) Guarantors, or those who act as their agents or act under their control, who provide information to postsecondary educational institutions pursuant to this section, shall defend, indemnify, and hold harmless the governing board or other governing authority of the institutions from action resulting from compliance with this section when the action arises as a result of incorrect, misleading, or untimely information provided to the postsecondary educational institution by the guarantors, their agents, or those acting under the control of the guarantors.

§ 94344 Rules and regulations

The superintendent with the advice of the Council for Private Postsecondary Educational Institutions, shall adopt rules and regulations necessary to implement Section 94342 and 94343.

§ 94345 Review and report to legislature

Prior to September 1, 1989, the California Postsecondary Education Commission shall review and evaluate all of the following, and shall report to the Legislature on the results of this review and evaluation:

(a) The implementation of this chapter by the State Department of Education.

(b) The effectiveness of subdivisions (b), (c), and (d) of Section 94310 in protecting the integrity of degrees and diplomas issued by private postsecondary educational institutions.*

ARTICLE 5

TERMINATION

§ 94350 Termination date of chapter

This chapter shall become inoperative on June 30, 1991, and, as of January 1, 1992 is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1992, deletes or extends the dates on which it becomes inoperative and is repealed.

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* "Subdivisions (b), (c), and (d) of Section 94310" have been renumbered as subsections (2), (3), and (4), covering approved institutions, authorized colleges and universities, and authorized schools of theology.

Appendix B *Prohibited Activities*

NOTE: The following text is reproduced from *West's Annotated California Codes, Education Code Sections 18000 to 32999, Volume 26B, 1989 Cumulative Pocket Part.* St. Paul: West Publishing Co., 1989, pp. 137-138.

Article 9 is a portion of Chapter 3, Miscellaneous, i, the Code's Title 1, Division 1 on General Education Code Provisions.

ARTICLE 9

PROHIBITED ACTIVITIES

§32380 Definitions

As used in this article:

(a) "Person" means any individual, partnership, corporation, association, firm, or public board, agency, or entity.

(b) "Prepare" means to put into condition for intended use.

(c) "Degree" means any "academic degree" or "honorary degree" or title of any designation, mark, appellation, series of letters or words such as, but not limited to, associate, bachelor, master, doctor, or fellow which signifies, purports, or is generally taken to signify satisfactory completion of the requirements of an academic, educational, technological, or professional program of study or is an honorary title conferred for recognition of some meritorious achievement.

(d) "Diploma" means any diploma, certificate, transcript, document, or other writing in any language other than a degree representing that an individual has completed any course of study.

§32381 Degrees or diplomas; preparation, manufacture or printing without consent of school authority; misdemeanor

Any person who prepares, manufactures, or prints, or who offers to prepare, manufacture, or print, for a fee or other compensation, any document purporting to be a degree or diploma without written authorization to do so from the school authority shall be guilty of a misdemeanor. As used in this section, "school authority" means any of the following:

(a) A governing board of a school district that issued or reissued the degree or diploma, as the case may be.

(b) A private school that issued or reissued the degree or diploma, as the case may be.

(c) Any public or private college, university, or other institution of higher learning that issued or reissued the degree or diploma, as the case may be.

Nothing in this section shall prohibit a person from reproducing, or having reproduced, for his personal use a degree or diploma issued to him by a school authority.

§32382 Degrees or diplomas; purchase and sale; fraudulent use

(a) Sell, barter, offer to sell or barter, or conspire to sell or barter, any diploma or degree as defined in this article.

(b) Buy, obtain by barter, attempt to buy or obtain by barter, or conspire to obtain by barter or buy, any diploma or degree.

(c) Use in connection with any business, trade, profession, or occupation, or attempt to use in connection with any business, trade, profession or occupation, or conspire to use in connection with any business, trade, profession or occupation, any degree or diploma, which has been purchased, obtained by barter, fraudulently or illegally issued, illegally obtained, counterfeited, materially altered, or found.

(d) Use in connection with a business, trade, profession, or occupation, or give or receive, any degree or diploma which has been purchased, obtained by barter, fraudulently or illegally issued, illegally obtained, counterfeited, materially altered, or found.

(e) Attempt to use in connection with a business, trade, profession, or occupation, or attempt to give or receive, any degree or diploma, which has been purchased, obtained by barter, fraudulently or illegally issued, illegally obtained, counterfeited, materially altered, or found.

(f) Conspire to use in connection with a business, trade, profession, or occupation, or conspire to give or receive, any diploma or degree evidencing the undertaking or completion of any course of study or scholastic achievement attained if, in fact, such course of study has not been undertaken nor completed or if such scholastic achievement has not been attained.

§ 32383. Willful violations of § 32382; misdemeanor; punishment

Any person willfully violating any provision of Section 32382 is guilty of a misdemeanor and is punishable by imprisonment in the county jail, or by a fine of not more than one thousand dollars ($1,000) or by both such fine and imprisonment.

§ 32384. Enforcement of article; relief

Any court of competent jurisdiction is hereby authorized to grant such relief as is necessary to enforce the provisions of this article, including the issuance of any injunction.

§32385. Injunctions

Actions for injunction under the provisions of this article may be brought in the name of the people of the State of California upon their own complaint or upon the complaint of any person, or in the name of any authorized public or private school, college, university, or other authorized institution of learning, acting on its own behalf or the general public.

Appendix C *Enrollments and Degrees*

NOTE: This appendix list the number of students enrolled in Fall 1987 and the number of degree awarded during 1986-87 by different types of California's privately supported degree-granting institutions. The asterisks on pages 91-94 indicate accreditation by the Western Association of Schools and Colleges.

Type of Institution	Fall 1987 Enrollment			1986-87 Degrees Awarded					
California Accredited Institutions	Full-Time	Part Time	Total	Associate	Bachelor	Master	First Professional	Doctorate	Total
American Academy of Dramatic Arts/West (Pasadena)*	No Data								
American Baptist Seminary of the West (Berkeley)	38	58	96			3	24	7	34
American Conservatory Theatre (San Francisco)*	72	19	91			10			10
American Film Institute Center for Advanced Film Studies (Hollywood)	161	00	161			81			81
Armstrong University (Berkeley)*	No Enrollment Data			11	32	71			114
Art Center College of Design (Pasadena)*	1,283	0	1,283		285		4		289
Azusa Pacific University (Azusa)*	1,694	1,042	2,736	No Degree Data					
Bay Valley Tech (Santa Clara)	No Enrollment Data			209					209
Bethany Bible College (Santa Cruz)*	442	102	544	8	74				82
Biola University (La Mirada)*	614		0	614No Degree Data					
Brooks College (Long Beach)	779	0	779	312					312
Brooks InstituteSchool of Photographic Art &Science (Santa Barbara)	614	0	614	0	117	1			117
California Baptist College (Riverside)*	543	116	659		115	10			125
California College for Health Sciences (National City)	No Data								
California College of Arts and Crafts (Oakland)*	748	352	1,100			153	21		174
California College of Podiatric Medicine (San Francisco)*	No Data								
California Family Study Center (North Hollywood)*	250	3	253			29			29
California Institute of Integral Studies (San Francisco)*	No Data								
California Institute of Technology (Pasadena)*	1,822	0	1,822		176	128		147	451
California Institute of the Arts (Valencia)*	831	4	835		120	89			209
California Luthern University (Thousand Oaks)*	1,322	1,126	2,448		259	157			416
California School of Professional Psychology (Berkeley)*	337	102	439			33		43	76
California School of Professional Psychology (Fresno)*	183		22	205		30		19	49
California School of Professional Psychology (Los Angeles)*	309	133	442				13	60	104
California School of Professional Psychology (San Diego)*	No Enrollment Data					40		26	66
California Western School of Law (San Diego)	No Data								
Chapman College (Orange)*	1,541	612	2,153	No Degree Data					
Chapman College Antelope Valley Rec (Lancaster)	No Data								
Christ College Irvine (Irvine)*	519	50	569	No Degree Data					
Christian Heritage College (El Cajon)*		356	37	393		66			66
Church Divinity School of the Pacific (Berkeley)*	73	34	107				2	22	24
Claremont Graduate School and University Center (Claremont)*	331	1,292	1,623			321		88	409
Claremont McKenna College (Claremont)*	849	8	857		203				203
Cleveland Chiropractic College (Los Angeles)	500	9	509		60		122		182
Cogswell College (Cupertino)*	96	153	249	13	35				48
Coleman College (La Mesa)	No Enrollment Data			102	108	11			221

Type of Institution	Fall 1987 Enrollment			1986-87 Degrees Awarded					
California Accredited Institutions (continued)	Full-Time	Part Time	Total	Associate	Bachelor	Master	First Professional	Doctorate	Total
College of Notre Dame (Belmont)*	474	587	1,061		135	107			242
College of Oceaneering (Wilmington)*	No Data								
College of Osteopathic Medicineof the Pacific (Pomona)	412	0	412			4	100		104
Columbia College (Los Angeles)	220	25	245	15	45				60
Condie Junior College (Campbell)*	No Data								
DQ University (Davis)*	88	178	266	7					7
Deep Springs College (Deep Springs)*	No Data								
Denver Conservative Baptist Seminary (Alta Loma)	No Data								
Dominican College of San Rafael (San Rafael)*	449	265	714		115	12			127
Dominican School of Philosophy and Theology (Berkeley)*	64	36	100		4	10	17		31
Don Bosco Technical Institute (Rosemead)*	270	53	323	114					114
Edison Technical College (Northridge)	No Data								
Empire College (Santa Rosa)		Decline to Participate							
Fashion Institute of Design & Merchandising (4 Locations)*	No Enrollment Data			909					909
Fieldings Institute, The (Santa Barbara)*	No Data								
Franciscan School of Theology (Berkeley)*	54	42	96			16	6		22
Fresno Pacific College (Fresno)*	486	414	900		83	51			134
Fuller Theological Seminary (Menlo Park)	365	1,707	2,072			211	177	100	488
Fuller Theological Seminary (Pasadena)*	No Data								
Fuller Theological Seminary Westmont College (Santa Barbara)	No Data								
Glendale University College of Law (Glendale)	0	93	93				16		16
Golden Gate Baptist Theological Seminary (Mill Valley)*		Decline to Participate							
Golden Gate University (eight locations)	1,504	7,778	9,282	3	289	1,873	152	9	2,326
Golden Gate University Center (Monterey)	No Data								
Graduate Theological Union (Berkeley)*	352	25	377			26		21	47
Grantham College of Engineering (Los Alamitos)		Decline to Participate							
Harvey Mudd College (Claremont)*	548	8	556			124	14		138
Heald Business College (eight locations)*		Decline to Participate							
Heald Institute of Technology (five locations)*		Decline to Participate							
Heald 4 C's Business College (Fresno)*		Decline to Participate							
Hebrew Union College Jewish Institute of Religion (Los Angeles)*									
Holy Names College (Oakland)*	296	317	613		98	74			172
Humphrys College (Stockton)*	260	193	453	No Degree Data					
ITT Technical Institute (seven locations)	No Data								
Jesuit School of Theology at Berkeley (Berkeley)*	104	46	150			15	23	9	47
John F. Kennedy University (Orinda)*	598	1,409		26	319	28			373
Kelsy-Jenny Business College (San Diego)	No Data								
L.I.F.E. Bible College (Los Angeles)	245	155	400	7	70				74
Life Chiropractic College-West (San Lorenzo)	4415	30	445				115		115
Lincoln Law School of Sacramento (Sacramento)	No Data								
Loma Linda University (two locations)*	3,110	1,077	4,187	149	461	241	212	18	1,081
Los Angeles College of Chiropractic (Whittier)	993	0	993		74		186		260
Louise Salinger Academy of Fashion (San Francisco)	No Data								
Loyola Law School (Los Angeles)	No Data								
Loyola Marymount University (Los Angeles)*	5,184	1,246	6,430		794	238	381		1,413

Type of Institution **California Accredited Institutions** (continued)	Fall 1987 Enrollment Full-Time	 Part-Time	 Total	1986-87 Degrees Awarded Associate	 Bachelor	 Master	 First Professional	 Doctorate	 Total
Manor Fashion Institute (Sacramento)	19	0	19	1					1
Marymount Palos Verdes College (Rancho Palos Verdes)*	795	275	1,070	180					180
Master's College (Newhall)*	672	103	775		52				52
McGeorge Law School (Sacramento)	Reports with University of the Pacific								
Menlo College (Atherton)*	623	12	635	9	65				74
Mennonite Brethren Biblical Seminary (Fresno)	85	37	122			6	9		15
Mills College (Oakland)*	956	99	1,055		188	57			245
Monterey College of Law (Monterey)	No Enrollment Data						29		29
Monterey Institute of International Studies (Monterey)*	454	83	537		34	183			217
Mount St. Marys College (Los Angeles)*	967	325	1,292	110	152	26			288
National College (Clovis)	No Data								
National Technical School (Los Angeles)	No Data								
National University (eight locations)*	6,122	7,171	13,293	410	1,518	1,221	42		3,191
Nazarene Bible College (Pasadena)	No Data								
Nazarene Bible College/Instituto Teologico Naza (Los Angeles)	No Data								
New College of California (San Francisco)*	No Data								
New College of California School of Law (San Francisco)	No Data								
Northrop University (Los Angeles)*	660	351	1,011	22	258	196			476
Northrop University LA County Education Facility (Downey)	No Data								
Occidental College (Los Angeles)*	1,660	28	1,688		375	11			386
Otis Art Institute of Parsons School of Design (Los Angeles)*	704	77	781	2	104	6			112
Pacific Christian College (four locations)*	No Data								
Pacific Coast College (San Diego)	No Data								
Pacific Graduate School of Psychology (Menlo Park)*	55	206	261			8		20	28
Pacific Luthern Theological Seminary (Berkeley)	84	46	130			4	28	3	35
Pacific Oaks College (Pasadena)*	No Data								
Pacific School of Religion (Berkeley)*	105	101	206			17	44	10	71
Pacific Union College (Angwin)*	1,300	192	1,492	No Degree Data					
Palmer College of Chiropractic-West (Sunnyvale)	No Data								
Patten College (Oakland)*	55	129	184		10				10
Pepperdine University (Malibu)*	4,668	2,299	6,967		802	876	1,278	27	1,883
Pitzer College (Claremont)*	762	41	803		168				168
Point Loma Nazarene College (San Diego)*	1,794	283	2,077		249	75			324
Pomona College (Claremont)*	1,407	0	1,407		333				333
Queen of the Holy Rosary College (Mission San Jose)*	1	206	207	3					3
Rand Graduate School of Policy Studies (Santa Monica)*	51	0	51					53	53
St. Johns Seminary (Camarillo)*	No Data								
St. Johns Seminary College (Camatrillo)*	77	0	77		20				20
St. Josephs College (Los Altos)*	70	0	70	1	9				10
St. Marys College of California (Moraga)*	2,701	464	3,165		70	700	235		1,005
St. Patricks Seminar (Menlo Park)*	89	3	92				15		15
Samuel Merritt College of Nursing (Oakland)*	157	32	189	68	72				140
San Francisco Art Institute (San Francisco)*	542	160	702		75	42			117
San Francisco College of Mortuary Science (San Francisco)*	No Data								
San Francisco Conservatory of Music (San Francisco)*	183	34	217		21	29			50
San Francisco Law School (San Francisco)	No Enrollment Data						35		35
San Francisco Theological Seminary (San Francisco)*	178	613	791			7	60	83	150
San Joaquin College of Law (Fresno)	No Enrollment Data						30		30
San Jose Bible College (San Jose)	116	74	190	3	24				31
Santa Barbara College of Law (Santa Barbara)	Decline to Participate								
Santa Clara University (Santa Clara)*	4,665	2,887		829	659	272	1		1,788a

Type of Institution	Fall 1987 Enrollment			1986-87 Degrees Awarded					
California Accredited Institutions (continued)	Full Time	Part Time	Total	Associate	Bachelor	Master	First Professional	Doctorate	Total
Saybrook Institute (San Francisco)*	181	0	181		3		11		14
School of Theology at Claremont (Claremont)*	128	80	208			14	27	16	57
Scripps College (Claremont)*	571	17	588		130				130
Simpson College (two locations)*	165	33	198		31	8			39
Southern California Center of Golden Gate Seminary (Garden Grove)*	No Dat								
Southern California College (Costa Mesa)*	7746	175	921		162	7			169
Southern California College of Optometry (Fullerton)*	379	0	379	2	71		97		170
Southern California Institute of Architecture (Santa Monica)	No Data								
Southwestern University School of Law (Los Angeles)	628	350	978				242		242
Stanford University (Palo Alto)*	11,892	2,240	14,132		1,628	1,852	246	562	4,288
Starr King School for the Ministry (Berkeley)	43	0	43				18		18
Studio Seven Fashion Career College (Covina)	No Data								
Thomas Aquinas College (Santa Paula)*	137	0	137		28				28
United States International University (six locations)*	1,678	901	2,579		367	648		115	1,130
University of Judaism (Los Angeles)*	93	78	171		16	13			29
University of La Verne (nine locations)*	2,476	3,052	5,528	No Degree Data					
University of Redlands (four locations)*	2,884	54	2,938		874	217			1,091
University of San Diego and Law School (San Diego)*	4,462	1,198	5,660		709	292	263	17	1,281
University of San Francisco (San Francisco)*	3,758	1,049	4,807		1,298	601		47	1,946
University of Southern California (24 locations)*	19,944	10,560	30,504		2,744	2,955	657	354	6,740
University of the Pacific (Stockton)*	4,581	1,045	5,626		648	126	561		15
Universaity of West Los Angeles School of Law (Los Angeles)*	152	541		10		67			77
Ventura College of Law (Ventura)	No Data								
Video Technical Institute (Long Beach)	No Data								
West Coast Christian College (Fresno)*	No Enrollment Data			24	16				40
West Coast University, Los Angeles (Los Angeles)*	828	210	582	2	77	198			277
West Coast University, Orange County (Orange County)*	363	91	454	No Degree Data					
West Coast University Cabrillo High School (Lompoc)*	No Data								
West Coast University Computer Sciences Corporation (San Diego)*	No Data								
Western State University College of Law (Fullerton)*	255	803	1,058		51		296		347
Western State University College of Law (San Diego)*	72	272	344		16		102		118
Westminster Theological Seminary in California (Escondido)*	No Data								
Westmont College (Santa Barbara)*	1,278	13	1,291		197				197
Whittier College (Whittier)*	1,247	324	1,571		169		110		279
Woodbury University (Burbank)*	606	182	788		110	37			147
World College West (Petaluma)*	100	7	107		14				14
Wright Institute, The (Berkeley)*	135	30	165			15		21	36
Yeshiva OHR Elchonon Chabad, West Coast Talmudic (Los Angeles)	No Data								
Out-of-State Accredited Institutions									
Antioch University, San Fracisco (San Francisco)	190	103	293		71	55			126
Antioch University, Los Angeles (Los Angeles)	No Data								
Antioch University, Santa Barbara (Santa Barbara)	No Data								
Balin Institute of Technology (Oceanside)	Decline to Participate								
Bethel Theological Seminary (St. Paul Minnesota)	No Data								
Bringham Young University, California Center (Whittier)	No Data								
City University (Santa Clara)	1,305	1,783	3,088	90	264	373			727
City University (Los Angeles)	546	0	546		21	46	7	13	87
College for Human Services (Oakland)	No Data								
College of St. Thomas (St. Paul, Minnesota)	No Data								

Type of Institution	Fall 1987 Enrollment			1986-87 Degrees Awarded					
Out-of-State Accredited Institutions (continued)	Full Time	Part Time	Total	Associate	Bachelor	Master	First Professional	Doctorate	Total
Columbia Bible College (Columbia, South Carolina)	No Data								
Columbia College-Missouri (San Francisco)	33	54	87	29	9				38
Devry Institute of Technology (City of Industry)	2,070	243	2,313	105	264				364
Embry-Riddle Aeronautical University (eight locations)	No Data								
Norwich University (San Jose)	No Data								
Nova University (Los Angeles)	No Data								
Southern Ilinois University at Carbondale (three locations)	No Data								
Union for Experimenting Colleges and Universities, The (Los Angeles)	64	0	64		7				7
University of Bridgeport (Los Angeles)	3,133	1,212	5,345	121	448	281	206	6	1,062
University of Phoenix (Costa Mesa)	No Data								
Webster University (three locations)	No Data								
State-Approved Institutions									
Academy of Art College (San Francisco)	1230	817	2,047		140	4			144
American Armenian International College (La Verne)	86	147	233		28				28
American College of Traditional Chinese Medicine (San Francisco)	No Data								
Anaheim Christian College (Anaheim)	26	0	26						0
California American University (Escondido)		29	29			1			1
California Christian College (Fresno)	20	22	42	7	2				9
California Christian Institute (Orange County)	No Data								
California Coast University (Santa Ana)	1052	0	1052						243
California Graduate Institute (West Los Angeles)	272	215	487			16		38	54
California Graduate School of Marital & Family Therapy (San Rafael)	36	75	11	No Degree Data					
California Institute for Clinical Social Work (Berkeley)	30	0	30					4	4
California Missionary Baptist Institute and Seminary (Bellflower)	18	2	20	1	3	2		1	7
California Pacific University (San Diego)	No Data								
California Theological Seminary (Fresno)	6	17	23			6	3		9
Cambridge Graduate School of Psychology, The (Los Angeles)	51	44	95					4	4
Center for Psychological Studies (Albany)	4	31	35					1	1
Center Graduate College (Saratoga)	18	0	18	No Degree Data					
Charles R. Drew Postgraduate Medical School (Los Angeles)	185	4	189					30	30
Columbia College (Los Angeles)	No Data								
Columbia Pacific University (San Rafael)	No Data								
European University of America (San Francisco)	55	2	57			49			49
Glendale University College of Law (Glendale)	No Data								
Graduate Center for Child Development & Psychotherapy (Los Angeles)	36	0	36					3	3
Human Relations Center, Inc. (Santa Barbara)	130	5	135			26			26
Immaculate Heart College Center (Los Angeles)		88	88	No Degree Data					
Institute for Advanced Study of Human Sexuality (San Francisco)	41	35	76			1		9	10
Institute for Creation Research (Santee)	0	6	6			1			1
Institute of Transpersonal Psychology (Menlo Park)	109	53	162			19		5	24
International School of Theology (San Bernadino)	43	36	79			28	22		50
La Jolla University (San Diego)	No Data								
Lincoln University the Law School (two locations)	304		304		22	21	20	12	75
Linda Vista Baptist Bible College and Seminary (El Cajon)	49	5	53		7	6	2	4	19
Music and Arts Institute (San Francisco)	Decline to Participate								
National Hispanic University, The (Oakland)	78	38	116	3	4	7			14
New College for Advanced Christian Studies (Berkeley)	10	100	110			15			15
New School of Architecture, The (San Diego)	79	15	94	No Degree Data					
Newport University (Newport Beach)		234	234		44	56	5	129	234

	Fall 1987 Enrollment			1986-87 Degrees Awarded					
Type of Institution **State-Approved Institutions** (continued)	Full-Time	Part Time	Total	Asso-ciate	Bache-lor	Master	First Profes-sional	Doc-torate	Total
Pacific Coast Baptist Bible College (San Dimas)	190	18	208		34				34
Pacific Coast University (Long Beach)		83					13		13
Pacific States University (Los Angeles)	No Data								
Pasadena College of Chiropractic (Pico Rivera)	137	0	137		21		56		77
Peninsula University College of Law (Mountain View)	0	121	121		19		9		28
Professional School of Psychological Studies, The (San Diego)	No Data								
Professional School of Psychology, The (San Francisco)	240	9	249		10	5	4	19	
Rosebridge Graduate School of Integrative Psychology (Walnut Creek)	52	3	55					4	4
Ryokan College (Los Angeles)	54	0	54		8	22		2	32
Salvation Army School of Officer Training (Rancho P Verdes)	70	0	70	27					27
Sierra University: A University Without Walls (Costa Mesa)	200	0	200		10	85		51	146
Simon Greenleaf School of Law, The (Anaheim)	53	63	116		4	14	7		25
Southern California Psychoanalytic Institute (Beverley Hills)		78	78					1	1
University Associates Graduate School of Human Resource Development (San Diego)	0	143	143			13			13
University for Humanistic Studies, The (Del Mar)	No Data								
University of Santa Barbara (Santa Barbara)	0	0						12	12
University of Santa Monica (Santa Monica)	318	0	318			31			31
Walden University, Inc. (West Covina)	180	0	180					59	59
Western Graduate School of Psychology (Palo Alto)	9	10	19					1	1
Western Institute for Social Research (Berkeley)	25	0	25		2				2
Western Sierra Law School (San Diego)	No Data								
William Carey International University (Pasadena)	28	81	109			17			17
William Lyon University (San Diego)	58	0	58		11	33		95	139
World University of America (Ojai)	55	0	55	No Degree Data					
Yeshiva University of Los Angeles (Los Angeles)	25	20	45		3				3
State-Authorized Colleges and Universities									
ABC Colleges (Fresno)	No Data								
American College for the Applied Arts (Los Angeles)	391	31	424	11	59				70
American College of Law (Brea)	0	84	84		4		13		17
American Institute of Hypnotherapy (Santa Ana)	Decline to Participate								
American National University (La Palma)	0	0	0		0				0
Asian American University (San Diego)	No Data								
August Vollmer University (Santa Ana)	No Data								
Bethseda School of Theology (Whittier)	47	7	54		6				6
CAL Northern School of Law (Chico)	32	0	32				7		7
California International University (Los Angeles)	100	6	106		2	15			17
California Pacific School of Law (Bakersfield)	0	13	13	No Degree Data					
Central California College School of Law (Fresno)	No Data								
Century University (Los Angeles)	No Data								
Charles E Dederich School of Law (Badger)	0	1	1	No Degree Data					
Christian Witness Theological Seminary (Berkeley)	No Data								
Citrus Belt Law School (Riverside)	Decline to Participate								
Control Data Institute (Anaheim)	11	11	22	31					31
Criss College (Anaheim)	86	64	150	No Degree Data					
Design Institute of San Diego (San Diego)	170	57	227		5				5
Dharma Realm Buddhist University (Talmage)	1	10	11	No Degree Data					

Type of Institution	Fall 1987 Enrollment			1986-87 Degrees Awarded					
State-Authorized Colleges and Universities (continued)	Full-Time	Part Time	Total	Associate	Bachelor	Master	First Professional	Doctorate	Total
Emperor's College of Traditional Oriental Medicine (Santa Monica)	No Data								
Eubanks Conservatory of Music and Arts (Los Angeles)	4	17	21		17	4			21
Eurotechnical Research University (Mountain View)	5	0	5					5	5
Foundation College (San Diego)	No Data								
Golden State University (Los Angeles)	No Data								
Great Western University (San Francisco)	17	11	28		1				1
Institute of Buddhist Studies (Berkeley)	6	0	6			1			1
Interior Designers Institute (Corona Del Mar)	No Data								
International Bible College (Los Angeles)	33	0	33		24		1		25
International University of Nutritional Education (Huntington Beach)	No Data								
Kennedy-Western University (Aggoura Hills)	25	13	38		10	3	1		14
Kensington University (Glendale)			1061		81	69	5	59	214
Los Angeles College of Chiropractic (Whittier)	No Data								
Marin Bible College (Novato)	No Data								
More University (Lafayette)	Decline to Participate								
National Education Center Skadron College of Business Campus (San Bernardino)	575	0	575	106					106
North American College (Irvine)	0	45	45				4		4
Northern California Bible College (San Jose)	0	105	105	1	5				6
Northwestern California University (Sacramento)	No Data								
Northwestern Polytechnic University (Fremont)	170	60	230		46	25			71
Pacific National University (Los Angeles)	0	0	0					3	3
Pacific Southern University (Beverly Hills)	0	174	174		122	39		13	174
Pacific Western University (Los Angeles)	0	114	114		303	54		121	478
People's College of Law (Los Angeles)	18	0	18				8		8
Rudolph Steiner College (Fair Oaks)	63	46	109		1				1
Samra University of Oriental Medicine (Los Angeles)	No Data								
San Joaquin College of Law (Fresno)	No Data								
South Baylo University (Garden Grove)	230	0	230		1	34	45	1	81
Southern California College of Law (Brea)	22	0	22	No Degree Data					
Southern California Conservatory of Music (Sun Valley)	0	104	104	No Degree Data					
Southern California University for Professional Studies (Anaheim)	No Data								
Southern States University (Huntington Beach)	No Data								
United College of Business (Downey)	300	200	500	No Degree Data					
United College of Business (Hollywood)	250	200	450	6					6
University of Northern California Lorenzo Patino School of Law (Sacramento)	0	70	70				31		31
Weimar College (Weimar)	No Data								
William Howard Taft University (Fountain Valley)	No Data								
Yuin University (Compton)	110	177	287	6	12	5		2	25

Type of Institution	Fall 1987 Enrollment			1986-87 Degrees Awarded					
State-Authorized Schools of Theology	Full-Time	Part-Time	Total	Associate	Bachelor	Master	First Professional	Doctorate	Total
Ambassador College (Pasadena)	604	19	623	101	173				274
Bay Cities Bible Institute (Oakland)	41	55	96	3	5	3			11
California Graduate School of Theology (Glendale)	No Data								
Chinese for Christ Theological Seminary (Rosemead)	No Data								
Ernest Holmes College/School of Ministry (Los Angeles)	42	28	70	16					0
Fellowship Bible Institute (San Francisco)	0	16	16	1					1
Marin Bible College (Novato)	9	50	59	4	5				9
Reformed Presbyterian Seminary (Los Angeles)	25	5	30			10			10
Shasta Bible College (Redding)	20	34	54	3	3				6
Southern California Bible College (San Diego)	5	31	36	No Degree Data					
Southern California Community Bible College (Norwalk)	21	116	137	7	4				11
Stockton Christian Life College (Stockton)	No Data								
The School for Deacons (Castro Valley)	52	4	56		12				12

Institutions Offering Religiously Exempt Programs	Full-Time	Part-Time	Total	Associate	Bachelor	Master	First Professional	Doctorate	Total
Agape Bible College (Los Angeles)	5	11	16		7				7
Alisal Baptist Institute (Salinas)	16	0	16	No Degree Data					
Alliance College and Seminary (Norwalk)	69	28	97	No Degree Data					
Anderson Theological School (San Diego)	No Data								
Auburn Bible College (Auburn)	0	0	0	No Degree Data					
Barachah Baptist Seminary (Vallejo)	No Data								
Berean Bible College (San Diego)	No Data								
Berean Graduate of Theology and Bible Institute (Visalia)	0	25	25	No Degree Data					
Bethal Christian College (Riverside)	17	28	45	1	2	12	2		17
Bishop's House (Los Angeles)	1	0	1	No Degree Data					
California Institute for Transformation (Grand Terrance)	No Data								
Capital Bible Institute (Sacramento)		51	110	161	14	5			19
Cathedral Bible College (Escondido)	21	69	90	6	1				7
Charles Harrison Mason Bible College (Oakland)	No Data								
Christian Life School of the Bible and Bible Institute (Riverside)	No Data								
Christian Zion Bible College (Pasadena)	No Data								
Citadel Bap[tist Theological Seminary (Sacramento)	12	8	20	No Degree Data					
Cline Clark Clinic (Los Angeles)	No Data								
College of Buddhist Studies (Los Angeles)	3	53	56	No Degree Data					
Commonwealth College (Los Angeles)	0	52	52					1	1
Concord Christian College (Concord)	No Data								
Cornel Bible College and Seminary (Los Angeles)	No Data								
Crenshaw Christian Center School of Ministry (Los Angeles)	138	0	138	74					74
E.C. Reems Bible Institute (Oakland)	No Data								
Ecumenical Catholic Diocese of California (Yorba Linda)	0	1	1					1	1
Evangelical Theology Seminary of Oversea (Gardena)	No Data								
GYE University (Orland)	1	18	19	No Degree Data					
Golden State School of Theology (Oakland)	25	70	90	2	4	6		10	22
Grace Schools of Long Beach (Long Beach)	4	72	76		2				2
Hemet Christian College (San Diego)	No Data								
Holy Mountain University (Groveland)	2	0	2	No Degree Data					

Type of Institution	Fall 1987 Enrollment			1986-87 Degrees Awarded					
Institutions Offering Religiously Exempt Programs (continued)	Full-Time	Part-Time	Total	Associate	Bachelor	Master	First Professional	Doctorate	Total
Immanuel Mission Bible College and Seminary (Garden Grove)	No Data								
Inheritance Bible College (Riverside)	11	19	30	5	4	1		1	11
International Institute of Pneumiatrics (Lakeside)	No Data								
International Theological Seminary of Van Nuys (Van Nuys)	67	0	67		33	19		15	67
J.P. Steadman Bible Institute (Sacramento)	0	12	12	No Degree Data					
Leonard Fox Bible College (Phelan)	3	16	19	No Degree Data					
Living Word Bible College (Pasadena)	No Data								
Los Angeles Christian University (Los Angeles)	No Data								
Metaphysical Theological Seminary (Long Beach)	No Data								
National Association for Ministers Evaluation (Los Alamitos)	No Data								
Northstate Baptist Institute of the Bible (Sacramento)	No Data								
Pacific Theological Seminary (Los Angeles)	No Data								
Puente Hills Baptist College of Religion (Hacienda Heights)	No Data								
Revival Christian University (Cypress)	No Data								
Sacramento Bible Institute (Carmichael)	No Data								
San Diego Bible Institute and Theological Seminary (Spring Valley)	No Data								
Shiloh Bible College (Oakland)	23	161	184	8	15				23
Sonlite Bible College and Theological Seminary (Downey)	0	0	0	No Degree Data					
Southern Baptist Bible College and Seminary (Irving)	No Data								
Southern California Theological Seminary (Stanton)	No Data								
Southern California Graduate School of Theology (Fresno)	0	0	0	No Degree Data					
Southern California Schol of Ministry (Los Angeles)	No Data								
Southwest College of Ministry (El Cajon)	No Data								
Spiritual Transformation Center Training Institute (Ventura)	0	0	0	No Degree Data					
St. James College (Pacifica)	0	39	94	No Degree Data					
St. Joseph of Armithea Angelican Theological Seminary (Berkeley)	3	3	6	No Degree Data					
The College of Divine Metaphisics, Inc. (Glendora)	0	44	44					7	7
The World Union Church, California Institute for Humanistic Endevor (Oceano)	No Data								
University of the Trees (Boulder Creek)	0	0	0	No Degree Data					
Youth Evangelism Bible College and Training Center (San Diego)	No Data								

Note: Based on data received by the Commission through April 1, 1989, the following display shows for the several major types of privately supported institutions in California the average number of students each of them enrolled in Fsll 1987 and the average number of degrees each of them awarded during 1986-87.

	Fall 1987 Enrollment			1986-87 Degrees Awarded					
Type of Institution	Full-Time	Part-Time	Total	Associate	Bazchelor	Master	First Professional	Doctorate	Total
Accredited Independent Institutions (119)	1,143	512	1,655	38	157	126	51	16	388
Out-of-State Accredited Institutions (7)	1,047	485	1,532	49	145	108	30	2	335
State Approved Institutions (50)	113	53	166	1	7	10	3	10	30
State Authorized Colleges and Universities (34)	77.5	48	125	5	20	7	3	6	42
State Approved Schools Theology (10)	82	36	118	13.5	19	1.3	0	0	34
Religiously Exempt Institutions (30)	14	26	40	9	3	1	0	1	14

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Note: Statements in the report that are not cited below were made to Commission staff during the course of the study, many of them at a meeting of the technical advisory committee for the project on July 26, 1988.

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Summary

During March and April 1989, the California Postsecondary Education Commission published three related reports dealing with state licensure of colleges and universities -- in particular, California's oversight of private postsecondary institutions, and its reliance on accrediting agencies for part of this oversight. This document reproduces all three of those reports.

- *Recommendations for Revising the Private Postsecondary Education Act of 1977* is the first of the three included in this collection but was the last to be published. It summarizes the findings and conclusions of the other two reports and offers eight recommendations for consideration by the Legislature regarding changes in the 1977 law.
- *The State's Reliance on Non-Governmental Accreditation* responds to Assembly Concurrent Resolution 78 (Hughes, 1988), which directed the Postsecondary Education Commission to review California's policy of exempting accredited institutions from State review. It concludes that California has relied more than it should on certain accrediting agencies for ensuring the quality of all of their accredited institutions, and it offers seven premises for establishing a coherent policy for State reliance on accreditation in postsecondary education.
- *Protecting the Integrity of California Degrees* responds to the Legislature's request that the Commission report to it on the effectiveness of the 1977 Private Postsecondary Education Act in "protecting the integrity of degrees and diplomas issued by private postsecondary educational institutions" as well as on the implementation of the law by the California State Department of Education. It concludes that improvements in both the law and its implementation are needed in order to bring California to the minimum level of consumer protection offered by other major industrialized states of the nation.

Further facts about each of the reports may be found on its inside front cover. If additional background is needed on it, the name and telephone number of the Commission staff member most familiar with it is also listed there. Questions about the Commission's overall position on State licensure of postsecondary institutions may be directed to Jane V. Wellman, the Commission's associate director, at (916) 322-8017.

STATE OVERSIGHT OF POSTSECONDARY EDUCATION

California Postsecondary Education Commission Report 89-21

ONE of a series of reports published by the Commission as part of its planning and coordinating responsibilities. Additional copies may be obtained without charge from the Publications Office, California Postsecondary Education Commission, Third Floor, 1020 Twelfth Street, Sacramento, California 95814-3985.

Recent reports of the Commission include:

89-4 The Effectiveness of the Mathematics, Engineering, Science Achievement (MESA) Program's Administrative and Policy-Making Processes: A Report to the Legislature in Response to Assembly Bill 610 (1985) (January 1989)

89-5 Comments on the Community Colleges' Study of Students with Learning Disabilities: A Report to the Legislature in Response to Supplemental Report Language to the 1988 State Budget Act (January 1989)

89-6 Prospects for Accommodating Growth in Postsecondary Education to 2005: Report of the Executive Director to the California Postsecondary Education Commission, January 23, 1989 (January 1989)

89-7 State Budget Priorities of the Commission, 1989: A Report of the California Postsecondary Education Commission (March 1989)

89-8 Status Report on Human Corps Activities, 1989: The Second in a Series of Five Annual Reports to the Legislature in Response to Assembly Bill 1820 (Chapter 1245, Statutes of 1987) (March 1989)

89-9 A Further Review of the California State University's Contra Costa Center (March 1989)

89-10 Out of the Shadows -- The IRCA/SLIAG Opportunity: A Needs Assessment of Educational Services for Eligible Legalized Aliens in California Under the State Legalization Impact Assistance Grant Program of the Immigration Reform and Control Act of 1986, submitted to the California Postsecondary Education Commission, February 23, 1989, by California Tomorrow (March 1989)

89-11 Faculty Salaries in California's Public Universities, 1989-90: A Report to the Legislature and Governor in Response to Senate Concurrent Resolution No. 51 (1965) (March 1989)

89-12 Teacher Preparation Programs Offered by California's Public Universities: A Report to the Legislature in Response to Supplemental Language in the 1988 State Budget Act (March 1989)

89-13 The State's Reliance on Non-Governmental Accreditation: A Report to the Legislature in Response to Assembly Concurrent Resolution 78 (Resolution Chapter 22, 1988) (March 1989)

89-14 Analysis of the Governor's Proposed 1989-90 Budget: A Staff Report to the California Postsecondary Education Commission (March 1989)

89-15 Planning Our Future: A Staff Background Paper on Long-Range Enrollment and Facilities Planning in California Public Higher Education (April 1989)

89-16 Standardized Tests Used for Higher Education Admission and Placement in California During 1988: The Fourth in a Series of Annual Reports Published in Accordance with Senate Bill 1758 (Chapter 1505, Statutes of 1984) (April 1989)

89-17 Protecting the Integrity of California Degrees: The Role of California's Private Postsecondary Education Act of 1977 in Educational Quality Control (April 1989)

89-18 Recommendations for Revising the Private Postsecondary Education Act of 1977: A Report to the Legislature and Governor on Needed Improvements in State Oversight of Privately Supported Postsecondary Education (April 1989)

89-19 Mandatory Statewide Student Fees in California's Public Four-Year Colleges and Universities: Report of the Sunset Review Committee on Statewide Student Fee Policy Under Senate Bill 195 (1985), published for the Committee by the California Postsecondary Education Commission (April 1989)

89-20 State Policy Guidelines for Adjusting Nonresident Tuition at California's Public Colleges and Universities: Report of the Advisory Committee on Nonresident Tuition Policies Under Senate Concurrent Resolution 69, published for the Committee by the California Postsecondary Education Commission (June 1989)

89-21 State Oversight of Postsecondary Education: Three Reports on California's Licensure of Private Institutions and Reliance on Non-Governmental Accreditation [A reprint of Reports 89-13, 89-17, and 89-18] (June 1989)

89-22 Revisions to the Commission's Faculty Salary Methodology for the California State University (June 1989)